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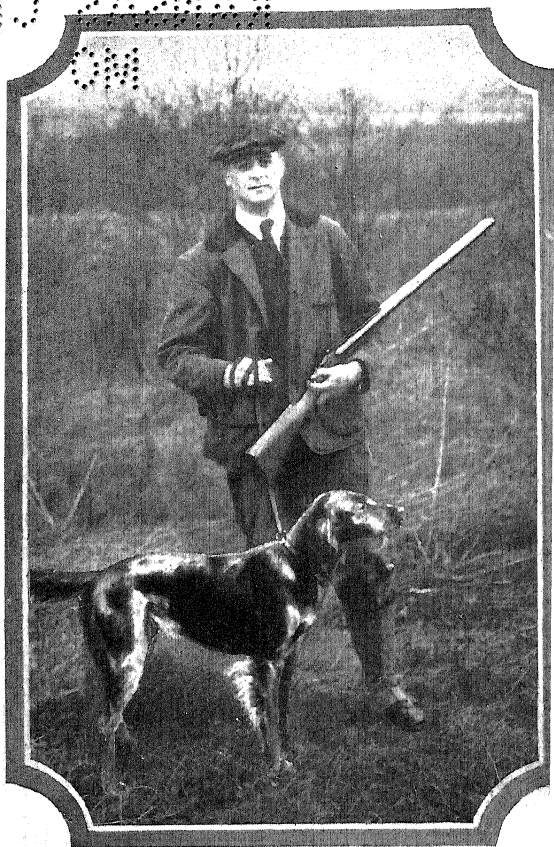
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NO HUNTING?

HORACE LYTTLE

THE JOURNAL
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HORACE LYTTLE AND SMADA BYRD

NO HUNTING?

*A Story of the Hunting Fields—and a
Vision of What the Future Holds
for Sport with Dog and
Gun.*

BY
HORACE LYTLÉ



1928

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TO ELLENORE

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FOREWORD

THERE have been vast changes in America since those first sturdy adventurers began their series of landings on our Eastern shores. They found a wilderness, peopled by wild life and a scattering of savages—peaceful enough Red Men at first, though not so later.

Hunting was always indulged in. It meant meat. The pioneers thus provided for their families. Later, as the Colonies grew, men of the Washington type took to the chase as their recreation. These were the gentlemen hunters.

Later still, we came to Frank Forester's day. He had the vision of another dawn—but it was indistinct and very hazy. Yet something told him that the old ways could not go on indefinitely. He deplored shooting for "the bag and the brag." Game was to be had in abundance and the supply seemed inexhaustible. But some subtle sixth sense whispered to Forester that all was not well—

FOREWORD

that we must some day surely face the reckoning.

And that day of reckoning is before us now. It is here—and we are living in it. We of today—and our sons of tomorrow—have the problems to face and to solve. These problems involve the answer as to whether sports afield with dog and gun are destined to endure—or doomed to die.

Americans are sport-loving people. The thrill of the hunt—the lure of autumn days—lies deep in most of us. The right to it is a heritage. But *the answer* to its future has not yet been written. In the following pages we are sincerely seeking to find that answer. How correctly it is visioned and interpreted remains to be seen.

THE AUTHOR.

PROLOGUE

IT was three o'clock in the morning, in the month of November. A boy of sixteen came riding down the sidewalk on a bicycle, with a brilliant carbide light breaking through the inky blackness of the night. About the middle of the block he dismounted and leaned the bicycle against a tree. Then he stepped into the gutter and picked up a hatful of small pebbles. Next the boy strode across the lawn to a large frame house and stationed himself beneath a window, against the panes of which he began to throw his pebbles with just enough force to be heard but do no damage. He had to cast a good many before he produced any result. Finally, however, a head was poked out and a hushed voice whispered: "Watch out! Don't throw any more. I'm up."

"Well, hurry then," said the boy from below. "We ought t'ave had breakfast now. I'll wait here, but you skip lively."

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The head was withdrawn from the window and it wasn't long before the front door was softly opened and a boy of some fourteen years appeared, dressed in hunting outfit, with a shotgun strapped over his shoulder, and with what daylight would have shown to be a beautiful bird dog following closely at heel. The two boys, and the dog, walked without a word around the house and got a bicycle from a shed in the rear. It, too, was equipped with a strong carbide light, which they quickly lighted. Then they returned to the sidewalk where both boys mounted and rode off—the dog still faithfully behind.

Finally they came to a house in which a light was shining. Here they dismounted and leaned their bikes against the porch. The owner of the dog gave an order: "Down, Shot—watch." The dog dropped instantly beside the bicycles, and anyone well versed in canine nature might have known Shot would not leave until ordered to do so. The boys entered the house. It was manifest that they understood each other perfectly, and also that this was not the first time the same proceedings had been followed. They moved

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without friction or the need of words—for they knew what they were about. This was the opening day of another quail season—and these two budding hunters were pals whose friendship had been cemented by many previous such days afield. In each of them had been born an inherent love of the great open spaces where birds abound. Their natural instinct for the hunt had been nurtured and developed through several seasons, until the desire had burned too deeply ever to die.

All this was long before the days of motor cars and smokeless powder. Travel was slower and hunts were always launched long before daylight. Those were the horse and buggy days—but these two boys always used bicycles, their guns strapped over their shoulders, and old Shot faithfully loping along beside. Fifteen or twenty miles he might thus follow them before the light of day had dawned—then all day long perform his duties stanchly in the field—at night returning again behind the bicycles, his seemingly tireless lope enduring mile after mile. If he ever grew footsore or weary, certainly he never gave heed.

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The boys were eating their hasty breakfast in Joe's house, when Jim looked over at him and said: "D'your uncle say 'twas all right?"

"Yes," was the only answer—but it was enough.

"Well, then let's be going—I'm ready," and they both rose from the table without more words. There was no further delay, except while Shot bolted his breakfast—which didn't take long. Then they were off. It was still pitch dark.

It proved to be a glorious day. Old Shot found twelve bebies and handled each perfectly. It was truly magnificent the way he snapped up the singles and retrieved. As both boys were fine shots in the field, they made a good bag. They ate both dinner and supper with Joe's uncle, and it again was dark when they started to grind out the miles toward home. But the intoxication of the hunt was still within them, banishing any thought of fatigue. The smell of an autumn evening was in the air, refreshingly stimulating them as the day had done. What is there for the hunter to equal those delicious days "when the frost is on the pumpkin" and it is

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a joy just to be alive and active in fields fringed with forest foliage in its purples and reds and golds!

The hour was not early when they returned to Joe's house and started to divide the birds. A sudden exclamation then escaped.

"Great gosh! I've lost all but two birds," and Joe's dejected manner showed how greatly he was both surprised and grieved.

Jim stuck his hand in Joe's hunting pocket—and the secret was out. The dried blood from many hunts had finally rotted the canvas and the bills of the birds had done the rest, working a hole through which all but two of their hard-earned quail had dropped out while they were riding home.

"Oh, well, it's all in the game, I guess," came Jim's quick comment, "but it's been a great old day just the same."

"Yes," said Joe. Then in a minute he added: "Jim, I've something to tell you. We're moving South for good next week. Didn't tell you today for I didn't want to spoil the hunt. Father and mother just decided last night. 'Course there's lots of hunting there—but I'm sorry 'bout leaving you."

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"Gosh!" his friend exclaimed with feeling. "That's terrible—for me. I wonder when we'll have our next hunt? You'll be gone by next Saturday, and my folks never will let me play hooky from school for a hunt."

"We'll hunt again together—sometime," Joe answered solemnly, "but I wonder when and where it'll be."

"Sure we will. Goodbye now—I must hurry home. See you tomorrow after church," and Jim went out into the night, scarcely noticing whether or not Shot was with him—but he was.

CHAPTER I

A NEW FIELD TRIAL FAN

"A FIELD trial dog," said Dave Rose, dean of the old-time handlers, "is one that runs away but not quite."

He was speaking, of course, of bird dogs; and whatever Dave Rose said was spoken with authority—for he it was who piloted Tony Boy and many other great ones to their victories. Yet it was in those last three words—"but not quite"—that he drew the vital distinction between the bolter and his brother that goes "big" but always handles.

Furthermore, Dave made that statement many years ago, and certain of our conceptions in field trials, as in other things, have changed somewhat with the moving tide of time. But, be it ever remembered, a field trial is a race—a race to beat your brace-mate to a bevy of birds. In the beginning—that is, when the first field trial was run in America, in 1874—the *race* feature of the

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thing was not so much in evidence. Finding and handling game was the all-important fundamental. Those were the days of the old "point system" of judging. There was then, however, more game to be found, and a dog didn't have to go either so far or so fast to find it within the time limit.

A little later we came to the period of the "heat system"—the beginning of a gradually growing scarcity of game—and the outcome of this period of field trials was an over-emphasis on speed and range. Thus the *race* feature began to overshadow the importance of the find—the trimmings became of greater moment than the fundamentals—the dessert came ahead of the meat. This was the day of "class" and *class was everything*.

Later still, the pendulum swung again—and gave us the "spotting system" of the present day. In due time, we began to get our gears in better balance, leaning not quite so far either to one extreme or the other. On this solid footing of middle ground we have placed field trials as a sport securely where they rightfully belong. We still insist upon speed and range. But no longer need it be

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inordinate. No longer are these the Alpha and Omega. We also want *judgment* in manner of hunting, and we want *nose* to find the game that is sought. We want *style* and *courage*, and we want *endurance*. And we want our dog to *handle* always—handle his game and handle for his handler. If, spurred on by his dominating instinct for the hunt—the lure to run and run and run until his birds are found—he feels impelled to pass on beyond the bounds of reason, beyond the reach of signal from his handler, he must never *quite* do it. That is the “quite” that Dave Rose had in mind. The dog’s enthusiasm must be susceptible of control. Then you have the ideal field trial dog. And, be it said, your *real* field trial dog is the shooting dog of your dreams.

Big Jim Marsh came into field trials about the time of the finishing touches of present adjustments. He came with a background of participation in other forms of sport. Yet he came with the usual conceptions of the average “shooting dog man.” There are many such who come, but not all of them remain. They come once—but find

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it too fast for their understanding, and don't stay in the game long enough to learn what it's all about. But Big Jim was not of this shallow stripe. He didn't at first see through it all—but he determined to see it through. That had been his way all through life, with anything he tackled. Too frank and outspoken ever to roll in popularity, he nevertheless always made his presence firmly felt. Jim Marsh typified *force*. He was one of the kind who make few friends, but hold them fast and true. The kind, too, who are bound to have as many enemies. He simply couldn't escape them—and still be Jim Marsh. Yet they never counted with him. His friends did count very vitally. The heart of Jim Marsh was as big as his body. Honest and fair and forceful, he was destined to become a power in the fraternity of the field. But that was to come—later. Not at first. We mustn't get ahead of our story.

The beginner in field trials has much to learn. Sometimes this comes rather quickly—but more often the learning takes years. There are certain things that we just know can't be done. You couldn't win with a

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pointer, for instance, prior to 1909; and no one has been able to win consistently since then with setters. Irish setters that can win are scarcer than the proverbial hens' teeth; and Gordons are simply out of the question. But Jim Marsh hadn't been in the game long enough yet to have learned these facts, and so—he bought an Irish setter puppy. In due time, she was registered in the Field Dog Stud Book as Killarney Mist.

There was a gigantic envelope factory once that had reached a known maximum production of so many millions a day. When a dynamic young executive took office therein, he did not know that they were already making as many envelopes as daily output could even dream—and so, not knowing that it couldn't be done, *he did it*. He increased the maximum almost fifty percent. Our present story, however, is to concern—not envelopes—but Big Jim Marsh and Killarney Mist.

An Irish setter will always attract attention. Women will stop to look at one; and so will the men. Killarney Mist attracted just such attention, and her fond owner

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thrilled with constant pride. But all this was on the streets around home—and field trial days were still dimly distant. The first time the young hopeful accompanied her master to the Star State Trials, she caused but little comment—and that was along considerably new lines, which caused Big Jim to ponder. One of his friends threw a hazy light on the subject one day when he smiled and said:

“Ever notice how an Irish setter separates the fellows who *know* from those who don’t?”

“Don’t believe I get you,” was the rather confused response. It was still a mystery to Marsh. He didn’t quite understand it. The light had not yet dawned.

“Well,” his friend explained, “everyone who knows nothing about it raves more over a red dog than any other, while the fellows who *know* don’t give ’em a second look. Thought maybe you’d noticed it,” he added.

The master of Killarney Mist had begun to realize something of the sort, but did not know the *why* of it—and he was too proud to ask. Yet, be that as it may, he had gone into the game and with Big Jim there could be but one answer—he would *see it through*.

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If you might be looking for a quitter, you'd have to pass up Jim Marsh. He just wasn't of that fibre. More and more he began to absorb the spirit of the sport, and he read and re-read all that he could gather of what had been written on the subject. And thus it came to pass that, from the books, Jim Marsh learned the true situation pertaining to the breed from which he had blindly picked his first prospect. Bench-show breeding had killed out the instinct for the hunt. Killarney Mist, however, was not thrown into the discard. The friendship between dog and master had developed into love—and Jim's friendships were always firm; his love was always loyal. So he just set his lips and went on about his business. He had bought Mist not knowing it couldn't be done—so he determined to *do it*. Maybe the show breeders hadn't killed the *heart* of the breed anyhow—and it's *heart* that counts most of all.

One thing Jim did know that dog men who knew more than he did had not seemed to learn. It was just this: that loyalty given is pretty apt to receive loyalty in return; and that love lavished will draw a like love in

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response. A dog raised only in a kennel develops a rather selfish interest in his hunting. This interest may be very deep—but Big Jim did not believe that kind of interest would ever rise to quite the heights of giving, that a loyal love would bring forth. He had said something hinting toward this belief one night during a trial, but they scoffed at the idea.

“You’ll get over that in time, if you stay in this game,” someone had said. The others smiled knowingly in agreement.

“If I ever do get over it, I’ll give up the game—for there would be nothing to it,” was the tight lipped answer Jim Marsh threw back at them. “You fellows who think you know it all have a lot to learn—an’ you don’t even know what you’re missing,” he added defiantly.

Killarney Mist became one year of age in August. Hence she was too young for a Derby—especially being an Irish setter, with the hunting instinct so dormant. But in September Jim began to work her in the field. And it was slow work. It was almost disheartening. In fact, it was so discouraging

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that anyone else would have given it up—and been justified. Jim Marsh several times almost felt like it himself, but the very thought was so contrary to his nature that he always fought it down. He never could really do that, sorely though he might be tempted. He might waver, but actually give up—*never!* It just wasn't in him to quit. He had never played football that way, and even in this fascinating new game the word failure wasn't in his vocabulary.

But he did not start Killarney Mist in any of the Derby Stakes that season. Instead, he succeeded in teaching her to handle game and hunted over her at every opportunity. Alone, they would go to the fields early and return late. No field trial handler would have worked a prospect this long at a time. In the case of Killarney Mist, however, there was this to be said in its favor—that she needed a lot of hunting to awaken the hunting instinct, and, although she came gradually to hunt more and more diligently, she did not go with the splendid speed of field trial standards. The net of it was that, even though he may not have realized it at the

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time, Jim Marsh was pursuing the one right course to instill a love of the hunt. The little dog grew even eager in trying to please a master to whom she might always look with confident, unfaltering eyes. Yet what started out more than anything else as an effort to win favor in Big Jim's eyes, developed finally into a keen hunting eagerness on her own part. And all the while she was learning—learning to love deeper every day, and to understand her master's desires with increasing intuition. Dog and master became almost as one in the field. During Mist's second season, Jim Marsh invited a few of his closer intimates to hunt over her and she became the envy of all these old hunters. Yet no field trial man had ever seen her.

With the advent of the September of her third season, Big Jim turned the page of a new chapter. There were no more long heats for Killarney Mist. But she was urged to run faster while she was hunting. She was no longer turned loose except to the whistle and Jim crowded her hard for speed. No run lasted beyond half an hour by the watch. Then she was taken up for the day. Now

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Killarney Mist was far too wise a dog not to fall in quickly with the new order of things. She saw that she need not adjust herself to an all day pace—that her master wouldn't allow her to do this. And if she couldn't have a good long hunt, she might as well make the most of it and simply do all the more while she was down. She came to see for herself that a short fast hunt is far more thrilling than a long slow one. You couldn't get very tired in such short heats as Jim now allowed her to hunt, so the thing to do was to get as tired as time would permit. Big Jim himself could scarcely believe his eyes. It hadn't been so hard! Not half so hard as trying to get her to hunt ever so little three years before. In these workouts the little bitch never quite caught up to her growing desire for the hunt. She was always taken up before the fine edge was worn down. So she grew faster and ever faster on the break-away, as if she realized there was not a minute to waste. Thus by mid-October there was one field trial fan who had under cover an Irish setter that would run for thirty minutes at killing speed—and handle to the letter

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of perfection any birds that might be found. Then Jim felt he was ready to show her to the world.

Jim Marsh was a typical and trained outdoorsman—and, as such, he had keen ears. Otherwise, he might have been saved a certain cause for resentment—if that had meant anything. The night of the drawings for the first field trial in which Killarney Mist had been entered, her owner was standing with her in the lobby of the hotel. It was here that he chanced to overhear a conversation. He was not trying to listen, but enough of it reached him. As might be expected, Mist was the only red dog in the stake and two old time fans were discussing the fact. Be it said to their credit, they did not speak sarcastically—but they were sincerely sorry for her chances. Which was worse. The former Jim might justly have resented. But in the case of the latter, he could only bide his time.

The best of the dogs that ran next day were good ones. A few were below par, as is always the case, but those that proved to be among the real contenders could hold their own in any company. There was a hush when

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Killarney Mist went down and you could feel the expectancy. But there was too much of a bond between the little red racer and her handler for there to be any great likelihood that she might throw him down. Those in the gallery soon knew they were seeing a dog race, as the Irish setter matched her English setter brace-mate stride for stride. But many there were who figured she was just trailing—that is, at first. Not after they saw the pair top a little rise and the red bitch reach out for an old rail fence that bordered a patch of standing corn far to the right, while Miami Maid, her brace-mate, bore toward the left. Yet even then those riders behind this pair were scarcely prepared for what they saw when Killarney Mist hit the bevy scent, proving that her judgment had not played her false. Most Irish setters just point—and that's about all you can say for it. The less said the better, as a rule. Not so with that point of Killarney Mist. She hit the scent while going at full speed, and skidded in her tracks into a truly spectacular stand. Head high, tail up, tense, she personified positive decision. She *had 'em*, you could make your

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bet on that. Her pose fairly shouted that this was so. And so it proved. And she was steady to shot and wing. The long, loving days afield with her fond owner had seen to that.

All that day the trial wore on, and the next. The following afternoon Killarney Mist was called back to run in the second series and repeated her good ground work, but did not again get on birds. It was a close decision between first, second and third. They might have been switched about most any way, those three, without injustice to either of them. But the other two dogs had three finds each and the judges saw Killarney Mist for third in a field of twenty-four starters. She had upheld her breed all alone against the field, the only Irish setter in the stake. Congratulations were showered on proud Jim Marsh. It was a happy day. The first trial in which Jim Marsh had ever had an entry. The first trial in which Killarney Mist had ever started. *Not so bad!* But that night Big Jim's cup was filled to overflowing when one of the judges himself came to him and said:

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"Well, Mr. Marsh, it's all over now and I'm free to speak and say to you *that's the best Irish setter I ever hope to see.*"

"Next time I want to make it a *first*," said Jim, and thanked him for his words.

"I wish you luck sincerely," the judge told him—"but you've already done a lot, and more than most can ever hope to."

Jim Marsh thanked him, and that closed the conversation. A field trial judge seldom, if ever, has much to say to the owners of the dogs that are in competition. But Big Jim kept thinking and hoping and dreaming of the day when Killarney Mist might be the winner of *first*. This dream simply would not be downed. It was destiny that it should come true—for the next year Killarney Mist did win her *first*. More than that, she won it so outstandingly that everyone knew the decision was a foregone conclusion even before the second series was called. And the year following that, she duplicated, winning *first* again, this time in even a faster and a larger field of starters. The little red bitch had made it two firsts in a row and Big Jim had achieved his goal.

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But had he? Human ambition is a subtle thing. Achievement never stands still. Accomplishment simply whets the appetite for more. One round of the ladder leads only to the next, and when we have reached the topmost rung, the next thought is of a new and higher ladder. We never quite reach the security of complete contentment—which is perhaps well. If one's restlessness is healthy, it leads to new heights. And so it proved in the case of Jim Marsh. For a time, he felt that he had reached the heights of dogdom, as, in a sense, he had. But a new idea kept gnawing away at his mind during the long evenings spent alone with Killarney Mist in the security of his den at home, as his keen eyes fed fondly on the trim form of the little red setter he loved so well. And finally, as was inevitable with Jim Marsh, the idea grew into a decision.

The following morning he sent for entry blanks for the National Amateur Championship. Then he wrote several other letters, looking to a suitable location for hunting and training in the South. It would be necessary, he knew, to acclimate Killarney Mist to

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southern conditions. She had never hunted below the Ohio River, and could not hope to compete on even terms unless she could be accustomed to the new type of territory in which the Championship would be run. Every other dog that was entered was already with one or another of the many professional handlers in the vicinity of Dixie Springs. But Jim well knew this would be out of the question in the case of Killarney Mist, for she had never hunted for anyone but her master and was so distinctly a "one man dog" that Marsh knew intuitively she would never strut her stuff for anyone else. So he planned to work her himself for ten days near Dixie Springs before the big event. In the meantime, he could keep her in hard hunting condition at home.

But Big Jim reckoned without taking into consideration the northern weather of December and January. It turned cold, zero and below—yet that alone need not have hindered the process of holding Killarney Mist in condition. What happened *did* keep him from it. A two-day rain turned to a crust of ice that completely blanketed everything

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—and the little bitch could not be run over this footing without harmful damage to the all-important pads of her feet. Then came a period of snow, and the ice was covered; but the snow was a foot deep and no field trial dog could make speedy headway against it, nor find game if he did. At this point business injected its merciless hold. Jim should have gone South immediately, to be fair to Mist and her chances, but this he could not do without too serious neglect of pressing matters at the office. The outcome of it all was that he was left with only those pitiful ten days in the Southland to try to accomplish what every other competitor had been two or three full months perfecting. It was almost too much even to attempt—for in those last forty days of ice and snow Killarney Mist had grown soft and had accumulated more useless flesh than could possibly be trimmed off in ten short days. And the Championship called for two-hour heats at top speed—demanding that a dog to go the route must be flawlessly in shape for such a killing grind. The outlook was desperately gloomy. It took courage to go on with it—but Big Jim was

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counting heavily on the courage of Killarney Mist.

When master and dog boarded the south-bound train at Cincinnati, the mercury registered five below zero. When they reached Montgomery at noon the next day, it stood at eighty-five above—a change of ninety degrees! Then it was that the very heart seemed to drop out of the usually dauntless master of Killarney Mist. He doubted the advisability of going ahead with his plans, and it occurred to him to give up the Championship and simply enjoy a hunt and go home. But he could not quite give up all hope—yet. Jim Marsh would never do that until all hope was gone. So they boarded the afternoon train for Dixie Springs.

The next morning master and Mist sallied forth with Jim's little twenty gauge gun. At noon they dragged themselves wearily back to the hotel in town. There might have been misgivings the day before—but these were as nothing to compare with the stern reality. Big Jim had killed nine birds, but he wasn't there to kill birds. The thing that bothered him was the heat and the heavy

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cover. Never in his life before had Jim Marsh felt anything but regret when a hunt was over. Yet now he found himself actually satisfied to quit at noon. He would, of course, have done that even had he not felt like it, for his job was to condition Killarney Mist for a race, the race of her life—not wear her out. What bothered him, however, was the fact that he himself was *willing* to quit so early. All zest for hunting was dead within him—and this was a strange, new sensation. He both feared and fought it.

There was another thing that worried him even more, however, and that was Killarney Mist. She hunted, yes—he could depend on her for that. But she had no snap; and snap is *everything* in a field trial dog. She did not like the heat, that was plain to see. Furthermore, the cover puzzled her. Back home she would pick out the likely looking birdy spots and race to them joyously. Here there were no such special spots to seek—it all seemed birdy. And right here entered another thing that Jim noted. Killarney Mist had found fewer birds than she would have found at home in the same length of time—

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and he saw that this affected her work, for it took away a large part of the *incentive* that is so vital. "What's the use?" she seemed to say. The worst of it was that Jim found himself not blaming her—how could he when he himself found interest waning! A dog's attitude toward hunting is no different from that of a man. If the kick is lacking for one, why not for the other also? Jim looked at it that way; and correctly. He realized, of course, that it was somewhat a matter of adjustment—that in time both he and Mist would become acclimated. But that was just the trouble—*there wasn't time*. There were only nine days more and no prediction of a change in temperature. Jim Marsh just shut his lips together, hard.

On the way back to town he bought a bottle of camphorated oil at the drug store. Daily work would knock a lot of useless flesh from Mist's ribs, but more stringent treatment was needed for her breasts, which were sagging sadly from surplus fat. He used up this bottle—and another—and still another. He made headway, but that is about all. Even when the big day dawned for Killarney Mist's

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supreme test, her breasts were more those of a mother than a field trial dog. She was giving each of her competitors too great a handicap—and Jim knew it all the time; knew it even as he gave her the first whistle to go, on that day of which he had so long dreamed. But we are skipping ahead too fast.

The second day witnessed quite a bit of improvement in the work of the little bitch—at least in the beginning—but they found even fewer birds than the day before, and this discouraged Mist, even as it did her master. She went through the two hours, however, and then they returned to town and Jim went to work again with his bottle of camphorated oil. While this operation was in process, a clean-cut, tanned young man came along and stopped to observe the proceedings. Then he introduced himself and explained that he was the chief state game warden. He asked Jim how he had found the shooting, and expressed keen regret at the report he received.

“Tell you what you do—if you want,” he ventured with appropriate reticence, “you

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just put yourself in my hands and we'll see if we can't show you something more worth while."

"But I don't want to be a bother to you," Jim hesitated, though he was in the mood to accept any suggestion.

"No bother at all," Ted (that was his name) told him emphatically. "I've got to be getting about anyhow and would love to have you for company. Just get your things together—the dogs can ride right in the machine with us—and we'll start immediately after lunch. In the meantime, I'll put in a call for Ira Adams over at Greenville and tell him to line up a hunt for tomorrow. He's my warden over there and knows everybody. So don't you worry a bit about it. I'll meet you at the hotel at noon," he said, and left Jim for the time being, still busy rubbing in the camphorated oil.

All the while he kept talking to Killarney Mist. "Yes, girlie," he would say, "we'll show 'em, won't we! Hold still now, little girl, so we can get the oil rubbed in good." And yet even as he talked to her, Big Jim would suddenly catch himself and a quiver

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ran through him as he realized the awful truth of the magnitude of what he was asking of the little bitch. But always he would merely grit his teeth and then grow silent. Jim Marsh knew not the meaning of quit—and he would not have loved Killarney Mist so much had he not known that she herself was of the same mold. Still, knowing what she could be counted on to give if called upon, why ask her to give it? Why not be satisfied simply with the knowledge thereof? These were questions that kept continually creeping into Marsh's mind. Yet always in Mist's eyes there shone a courage that taunted him to go on.

He raised himself stiffly from his knees. It was a tedious job, this work of kneading the flabbiness out of those breasts. He felt dizzy as he got to his feet, but this soon passed and he started down the street, Killarney Mist at heel. At the drug store he turned in for a chocolate milk, the dog following. Now Dixie Springs was distinctly a dog town—more than that, it was a *field trial town*. But the field trials almost never saw the entry of an Irish setter; and most field trial

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dogs were of different mold from Killarney Mist—they could not be walked down the streets of a town except on lead. Hence it was not surprising that Big Jim was constantly answering questions, and the present instance was no exception. A stranger sidled up and addressed him, as he sipped his chocolate milk, Killarney Mist lying calmly beneath his stool.

“Purty dog you got, mister. Don’t often see the red uns any more. Are you shootin’? How is she in the field?” He stated fact and asked his questions without pause for answer.

Jim picked out the one question and answered it. “Yes,” he said, “she’s very good in the field.”

“Been findin’ many birds?” the stranger asked him.

“Only here two days—but I haven’t found as many birds as I’d hoped. I’m trying to get her ready for the Championship,” Jim told him.

“What!” the man exclaimed. “An Irish setter—in the Championship! Has she ever qualified?”

“She’s qualified *four* times.”

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That statement almost floored the man. But he asked one more question. It consisted of only one word: "Where?"

The answer required but one word also. "Ohio," said Jim.

"A lot colder up there this time of year, ain't it?" asked the kindly meaning man of the South.

Jim felt himself almost shiver as he answered with the deepest feeling he had shown: "Yes, my friend, it is very much colder. In fact, it was below zero three days ago when we left home. It is winter still up there, but down here I notice you people are already calling it 'spring,' though it's but February. And it's this heat that I fear is going to prove my undoing," he said, as he paid for his drink and rose to go.

"I'd like to see her run," said the stranger. "Guess I'll go out—it sure will be a novelty to see an Irish run against a pointer or setter. But I'll tell you now, this has been an unusual year. We don't often have it so hot as this so early. A dog can't do good work on game runnin' with his tongue hangin' out and needin' water all the time."

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"No, indeed he cannot," said Jim. Then he added: "But we shall see what we shall see." And as he walked slowly down the street, he kept repeating that last remark over and over to himself, as if it fascinated him: "We shall see what we shall see; we shall see what we shall see." Killarney Mist turned her eyes up toward his, and he looked down into hers. They understood each other, these two, as dog and master seldom do. And, say what you may, it was just this understanding and their love that lay behind all of Killarney Mist's achievements.

"Well, we're all set for tomorrow," Ted exclaimed with much enthusiasm, when they met for lunch at the appointed time. Jim had packed his duffel bags in the meantime and was ready to be off as soon as they should eat.

Imagine motoring in your shirt sleeves the first week of February! Jim Marsh just couldn't get over it. They stopped in Montgomery and he bought some summer underwear and a shell vest—the latter so he need not wear a hunting coat, which he had found was intolerable in that heat.

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The ride from Dixie Springs to Greenville was an interesting one and the man from the North enjoyed it to the full. The clay roads were good, as it had not rained, and the things he saw were a constant source of enthusiasm. They did not pass the number of old southern mansions that he might have expected, but the steady stream of darkies, especially the older ones who always carried their buckets or baskets balanced on their heads, were interesting beyond expression. It was as though one might have turned back the page of time a hundred years! They passed innumerable fires raging through both fields and forest, and the new found friends discussed the pity of this—the destruction it wrought to game of all kinds. The greatest damage, Ted explained, was done at night. The birds and animals might flee before the flames in daytime, but when darkness came the quail especially would just lie tight and perish, whole bevvies at a time. Jim told Ted of the fires he had seen in the great Canadian forests of the far North. There arose between them a bond of common understanding and long before they had reached the lit-

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the town of Greenville, a friendship had been cemented, founded on sportsmanship, which each of them felt and knew was destined to endure. A beautiful thing that—one of the most healthful outcomes of indulgence in sports afield. Whenever they passed a shaded stream of running water, Jim asked to stop and give the dogs a chance to drink—and Ted's always quick compliance kept cementing the bond between them closer and ever closer.

"D'you know," said Ted, as the motor purred along, "I consider that our Amateur Field Trials in this state have done more to promote good sportsmanship and an appreciation of the problem of game restoration by propagation, than any other influence—or all other influences combined. I'm constantly being asked to judge our trials down here, and I never refuse. I believe I'm thus helping to do more than I could in any other way. I could tell you of hundreds of former game hogs who have changed completely after they've gotten interested in field trials. The thrill thereafter comes not so much from killing, as from the work of a class dog. The

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latter becomes *everything*—and the former is only incidental. Nothing has so helped our department in its work as the rapidly growing spread of the spirit of this sport.”

“Glad to hear you say that, Ted, for it’s my contention, too. I believe that if more state game departments would make the promoting of field trials one of their major missions, they would see a greater and more healthy reaction than from any other activity they might undertake. Policing by wardens has its importance, but to my mind is a very minor matter compared to *propagation* and the spread of a great propaganda of *education*—these are the big things!” Jim puffed a great cloud of smoke and became silent.

“I agree with you every inch of the way,” answered the chief game warden of his state. “The thing to work toward is more and more hunting, rather than constantly less and less. We’re not getting anywhere if we simply keep on forever vainly trying to protect a diminishing supply. How to *increase the supply*—that’s the thing. That’s the way they work it in England, and they *have* game over there. If we don’t profit by their longer ex-

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perience, the time will come when we won't have much game left to protect. The thing this country better do is get busy and learn how to *produce*. There's a fundamental danger, too," he added, "when you get your shooting crowded down into seasons that are too short. You don't have enough hunting for the instinct to feed upon, and something vital, that cannot be replaced, will be lost forever. It is to my mind important that the men of America shall not permit the love of hunting to die out of our national life. We inherited this thing from our forefathers who conquered the wilderness. It is something that somehow must be preserved—but cultivated along lines of higher conceptions. Gosh! I've almost preached you a sermon," Ted laughed. "But here's Greenville."

At a honk of the horn a little darky came ambling out of the hotel and shuffled up the steps with their duffel bags, while Jim accompanied Ted in search of Ira Adams to secure quarters for the dogs overnight. Then, while Ira was preparing the dog food, Jim got busy with his bottle of camphorated oil. He could not see that he was making much

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headway—but doggedly he kept at his task. Later, when the dogs had been made comfortable, with a pan of fresh water and good bedding, the three men went back to the hotel for their own meal and to plan the next day's hunt.

"I don't want to run Mist over two hours," Jim explained, "but the others can go a half day. That's long enough for any dog, as hot as it's been."

They agreed. "Yes," said Ira, "a dog can't do himself justice handlin' birds, all hot an' his tongue hangin' out for water. It's been a bad year."

Birds were scarce next day—at least work on them was scarce—and Jim noticed that this continued to affect the interest of Killarney Mist. It discouraged her, this lack of reward for honest effort, and one who knew her every mood, as Jim did, could not help but detect that her hunting was becoming more and more perfunctory. And he could not blame her, he who was feeling the same way about it himself. Two hours of hard hunting had produced only one bevy. They lingered a long time over their sandwiches

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at noon, and Jim didn't care much whether they went out again in the afternoon, or not. One more day was lost, he found himself thinking. From the standpoint of handling game, this was true—but then Killarney Mist did not need any refinement in her work on game; she was perfection itself. The work, however, although it was hardening her up, was at the same time eating the heart out of her interest. She felt that it was a thankless job, this thing of ceaselessly searching for birds that could not be found.

And there continued that inevitable handicap of high cover. Back home Killarney Mist had been accustomed to race across a field and pick out the birdy spots here and there, even as she ran. But now there were no such special spots to select—it all looked likely. Yet it did not bring forth the birds. These vast acres of deep, yellow sedge grass certainly seemed “birdy”—every foot of them. What, therefore, was the sense of reaching out to the horizon line seeking something better that might not be—and passing up the territory at hand? “The grass always looks greener on the other side of the fence”—but

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thinking persons are not so deceived; and Killarney Mist was a thinker, even if not a person. Thus, as Big Jim had begun to observe, the character of this country was cutting her range. That night he felt as if the whole weight of the world were pressing down between his shoulders. But still he went to work with almost vicious determination applying the camphorated oil. After supper they talked it all over and decided to try new fields for the morrow. So the duffel bags were packed before they went to bed, to be ready for an early start.

CHAPTER II

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"SAY!" Ted suddenly exclaimed while they were eating their grits at breakfast. "Let's drive over and run Mist with the National Champion!"

"I'd like to see him," was Jim's answer. And two hours later they were there.

Quite a little local gallery soon gathered to see the red dog with a northern reputation run against their favorite, the splendid English setter that had won the coveted crown of National Champion. They did not expect him to be beaten—and he wasn't. But—

"Well, I'll declare!" exclaimed the handler of the champion, as the two dogs broke away together on the cast-off. "Why she's goin' right along with him!" he added a minute later.

"Yes, and she *will*," Ted smilingly answered. His friends were being introduced

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to a red dog that would open their eyes, and it pleased him, for he himself had taken quite a fancy to Killarney Mist.

The handler pulled his horse over until he was riding alongside of Jim Marsh. "Will she keep that up, mister?" he asked. "She's the best red dog I ever hope to lay my eyes on—an' the most independent! She's goin' right along with him, but she's cuttin' out her own country."

"She *should* keep it up—and she will, I think," said Big Jim. He was more pleased than he had been since coming South. Mist *was* running a great heat. But then the territory was the most to her liking of any they had seen. It was more open, but with good cover spotted here and there in every direction. And there was another incentive that was but typical of Killarney Mist. She seemed actually to realize that she was running with the National Champion, and she gave every ounce of her all. Jim Marsh may have seen her produce really greater heats back home—but this private heat in Dixie was perhaps from many standpoints finer still. For, be it ever remembered, she was on foreign soil,

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which was *home* to her brace-mate. He knew every inch of it and every bevy of birds. And he was not affected by the heat as much as she, for he was used to it. Furthermore, he was in infinitely finer form for running—she was still soft. Yet she spotted him all this handicap and ran against him for two hours, matching his speed every inch of the way. When the heat was over, the National Champion had scored two bevies to one for Killarney Mist. Thus she had beaten him to one out of three bevies on his own training ground! It was but natural that Jim Marsh should feel his hopes and his spirits begin to rise.

While they were eating lunch a little later, back in town, a telegram was delivered to Ted. He read it and announced: "I'm called away, Jim, but I'll drive you back to Dixie Springs. We'll have to start right away."

As they were parting, the handler of the National Champion turned to Marsh and said: "I'd like to take that bitch of yours down the circuit, an' not charge you a cent but the wins. It sure would be a nov-

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elty to win a big open stake with a red dog!"

Such an offer was the greatest tribute he could have paid, and Big Jim knew it. The compliment of it washed away all the worry he had suffered; but he merely thanked him and explained that it could not be done. Killarney Mist was coming six, and he wanted soon to retire her from field trial competition and just let her hunt at her own pace for the rest of her days. Furthermore, Jim could never have stood it to let her go. Some men, and most dogs, are that way. The tie that binds is not lightly to be broken. But beyond all that, Marsh explained that he doubted if Killarney Mist would ever run her best for anyone but himself, in which statement he hit the nail on the head. It had been a great day and it was with a light heart that he faced the long drive toward Dixie Springs. They reached there just in time to eat a late supper, and immediately thereafter Ted left to drive as far as possible yet that night on his way to Birmingham.

The next morning, Jim started out alone, with Killarney Mist. He had not had a chance to arrange for a horse, and he worked

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her afoot, which he hated to do so close to the Championship. Yet he had to make the minutes count—time was crowding toward the trials. Condition—that was the big thing. It was a very unsatisfactory heat. Mist found one bevy and her master killed two birds. But it was so excessively warm that Jim himself lacked the energy to crowd the little bitch, and before long she slipped into a moderate shooting dog pace. Even at that, Jim lagged. What incentive did Mist have to exert herself! They returned to town—and to the camphorated oil. Marsh had planned to take the other dogs and hunt after lunch, but found he had lost the desire, so he got a book and spent the afternoon reading. His chair was lazily tilted back against the building on the sidewalk outside the hotel office door. When the train arrived, so did some of the early ones for the Championship. Big Jim closed the book and they had a regular field trial talk fest. It was late when the party broke up.

Jim was awakened in the night by thunder and lightning. This was soon followed by rain in torrents. His heart sank within him,

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for the storm had all the ear-marks of enduring for several days. It did. The next day, Big Jim thought of buying a Bible and reading over again the Book of Job. The participants for the Championship kept coming in on every train and the dog talk waxed warmer all the time. Jim kept faithfully at work with his camphorated oil, but for two days he could not work Mist at all—and then the big event was only two days off. He gave the little bitch one last hard workout—and all of anticipation had passed. It was now just a question of the acid test. Killarney Mist was drawn to run in the seventh brace. Three braces were run each day. Jim could thus figure that he would run the first course on the third morning. He was anxious to see what it might be like. He found out!

When the running for the first day was over, and the clans gathered that evening in the little lobby, the whole talk centered on the prohibiting handicap of Course No. 1. It had proved simply impossible! The cover was abnormally high, and there wasn't a break in it from beginning to end. The footing was abominable. Several horses had

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mired down to their bellies! Yet the dogs were supposed to run it at top speed for two long hours. And, to make matters worse, there had been no evidence of birds. Two dogs had hunted it for two hours and found not a feather. Neither had any birds been flushed by the gallery which followed on horseback.

Jim Marsh listened to the talk and smiled, grimly perhaps—yet he actually smiled. Then he said: “Well, men, I’m glad to know the sentiment, for that’s the course I get day after tomorrow.”

“I pity you,” said the secretary of the Championship Association. “If any dog steps out with a real field trial heat on that course, he’ll be lost and out of judgment in five minutes. And if he doesn’t get lost, he’ll look too short for field trial standards. But whether he reaches out, or hunts close, in either event he can’t show on birds. So he’s out before he starts, I take it, whatever kind of a heat he runs.”

“That’s the way I size it up,” Jim answered —“and if ever there was a course I felt sure my bitch would throw me down on—*that’s*

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the course. I'm curious to know what she will do on it but *it won't be much.*" Still Jim smiled as he said it. He knew he was going to have to take his medicine. He knew it was going to be a bitter dose. And he was ready for it. The reality could be no worse than the discouragement of his anticipation. He had lived through that. Anything more would be but a detail.

Big Jim was out with the earliest of them next morning. He was anxious to see what might occur with the new brace on Course No. 1. So he was on time at the starting point. What would these dogs show? he wondered. Long before the two hours were up, he found out. When it was over, one of them had gone through his heat in fairly creditable shooting dog fashion. The other, so far as anyone knew, had run a real field trial type of heat. But there was no certainty even of this. On the first cast he was gone for forty-five minutes—out of judgment. Then he was sighted working through a draw, apparently doing good work, or trying to. For about twenty minutes thereafter he was under judgment, when he disappeared

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again, this time for a longer period than before—and was still out of judgment when they were ordered up. Neither had shown on birds. And, again, neither had any birds been flushed by the gallery.

If anyone might have tiptoed into Jim Marsh's room, when he retired that night, they would have found him on his knees in prayer. Now we all know that prayers do not win field trials. And the hardened ones might not have understood. Yet, be it added, there could be none so hard that they might have dared to smile openly at Big Jim. That would have invoked his ire, which was a dangerous thing to do. A man can pray—and still hit hard. Jim Marsh was of that stripe. He was not praying that he might win. He knew that he *could* not. It wasn't in that course for any dog to win on it. Each of the other courses was too much better. Each of them contained too many bebies of birds. All he prayed for was that Killarney Mist might not disappoint him—that she might run a heat of which he need not be ashamed. And it was somehow for her sake, even more than his own, that he prayed she

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might be as near at her best as the conditions permitted. Too few feel toward their dogs that way. Yet Jim Marsh was more masculine than many who might smother such a sentiment. If anyone might doubt this, Jim's punch could quickly prove it.

Just two minutes before starting time next morning, Killarney Mist was led out before the judges and the mounted gallery. This day the champion would be named. Beside the little red bitch stood her brace-mate, a powerful pointer, son of one of the greatest his breed had ever known, a Prairie Chicken Champion as well as National Champion on quail. At the very minute that the watches of the judges showed eight o'clock, they gave the order—"Let them go!"

As Killarney Mist sifted away into the scenery, her master jumped quickly into the saddle. The day had dawned that would answer the question of his dreams! But even in those first few minutes Big Jim felt it getting hotter—and then hotter still. *Two hours of it!* He looked at his wristwatch. Only ten minutes had elapsed—yet it seemed an hour. Lord, how long it was, two hours in that heat

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Would she be able to do it? he wondered. Then remorse swept through the very soul of Jim Marsh and he regretted what he felt was hardness of heart in asking Mist to run and give away such odds. Only a week of preparation—against a field that had been conditioned for months for this race. He had noticed how few had gone the route and finished strong. Most of them had finished but little faster than a slow trot—spent to the last drop. What would Killarney Mist do? How would her heart respond? Or, even if her heart willed her to go on—*could she?* Could she hold command of her aching muscles even if her heart was willing? Would she have the power, even if she did not lack the heart? Of the heart he had no fear. Of the *power* he had much.

That first cast of Killarney Mist's was all he could have asked. She had a gallery behind her, and she knew what that meant. And she was actually leading her brace-mate through the heavy cover. But, though Mist well knew the difference between a field trial and a hunt, she had never run before in a trial for more than thirty minutes. This

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was an endurance race—which information was denied the brave little bitch. So for the better part of thirty minutes all went well, though to Jim Marsh the time just seemed to meander along. The fatal wrist watch kept telling him minute by minute how long two hours can be.

Then it happened—and his heart almost stood still! A dog is a good judge of time, you know, and at the end of exactly twenty-five minutes Killarney Mist cut short a cast and turned in toward her handler. Jim gave her the go-on signal, but she failed to heed. The time was up, she figured—and she didn't like that course anyhow. Something told her it was barren of birds. What was the use of hunting any longer, when her heat was over? And she was mighty glad it was. She was sorry, of course, that she had not found even one bevy. That would disappoint her master, she knew—but then he would understand. She knew that, too. If there had been birds there, she would have found them. She was sure Jim would know that. So she came in to him now, her eyes looking into his up there on that big horse, speaking their sorrow—

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for she knew she had not won. She always knew when she had won; and she had won so often that Jim would surely forgive her now.

But Big Jim startled her—"Mist, *go on!*" he cried. What could it mean? Surely there must be some mistake. The heat was over. She knew she had run the usual thirty minutes. She had never run more than that in a trial.

"Mist! *go on!*" The imperative order came again—impatient this time. And Mist wondered, but *went on*. Then she realized how hot and tired she was. She must find water; and her muscles ached so. She had been counting on Jim for that water. He always gave her cool, fresh water the first thing after every race. Now she must find some herself. Still feeling that the heat must surely be over, she started hunting water, but not birds.

Killarney Mist looked bad before the judges. She was throwing her master down in public for the first time in her life. And the pity of it was she didn't know this—she who knew so much. But at last she found

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her water, a little pool of it. It tasted good. It *felt* good, so she dropped down in it after drinking. It was comforting and cooled and soothed those tired muscles of her slender legs.

"My God, she's quit!" gasped Big Jim Marsh. But no one heard it. He merely sobbed it to his soul. His dry lips formed the words, but no sound came. He felt it was all over, that his prayers had been neither heard nor answered. He turned to ask permission of the judges to take her up. It was the most awful moment of his life. If he could only have been spared this!

Jim Marsh was gifted with keen ears—and he overheard a bit of conversation now that sent a shiver into his very bones. This is what he heard someone say: "He was a fool to have started her. It just isn't in the breed. Dogs like that only take up time that might better be used by another."

That changed his decision—he'd go through with it now, no matter what happened. The second half hour had passed quickly. He was in such a mental turmoil that he hadn't seemed to notice it. There was an hour yet

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to run—again as long as Mist had run already. In that second half hour of her heat Killarney Mist had killed all her chances—but then she had had no chance anyhow. Be that as it may, Big Jim Marsh was bent now upon just one thing—to put her through the next long hour, and put her through hard. If she might show nothing else, she must show them that she had the *heart*. It looked as if she had quit cold—but, in spite of appearances, Jim still believed she would understand and respond to urging. He dismounted and went to her, still lying in the water. He talked to her—and prayed that she might heed. Then he led her out again before the judges and started her afresh, giving the same whistle signal as on the first cast.

And Killarney Mist at last did understand! Jim wanted her to go on with the heat. She did not know *why* this was—but that didn't matter. Without questioning the motive, she answered the call of duty. She did not bring down the galleries with a great heat. No truly great heat could be run on that course by any dog. But she *did* go back to hunting; and she hunted *hard*. Even with

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the incentive of birds lacking, the splendid heart of her responded—and her motive now was her unspeakable love for Jim Marsh. If she could only find a bevy! No dog had yet done it on that course.

The footing was the worst it had been. Two previous heats over the same course with a large gallery on horseback had plowed up the damp, sticky clay and made it heart rending to run through. Yet Mist fought it with an appealing gameness every inch of the way. She had run an hour and a half. Only thirty minutes left to go! Yet those last thirty minutes are always the hardest in a long heat. Many of the dogs had run well, only to falter and fail in that final fatal half hour. Mist made a cast to the right around a strip of woods. Jim galloped ahead to keep her in sight, though he knew she would never get lost except on point. But if she might find birds in that heavy cover, to lose her would be mighty simple, for Jim knew she would stick to her post. Once he had lost her on point for three hours—and that had been back home where there wasn't one fiftieth the chance there was here. Suddenly he smiled

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to himself at the very assumption that she might get lost on point here—there were no birds to point! He reined in his horse and rode along again more slowly. Just the same, she wasn't in sight when he turned the corner of the woods around which she had swung. He rode on, expecting her to turn up any minute; but she did not turn up. Finally, he asked the judges if they would delegate someone to help him find her. They did.

"POINT!" The call came from far to the right.

Big Jim Marsh turned to the judges. "If Mist is pointing," he said, "you can bank on birds. Will one of you come over?"

"Sure," answered both judges at once. "Jack, suppose you go," the senior judge said to his associate—"an' I'll ride the pointer."

The gallery clattered along close behind Marsh and the judge, eager to be present at the first find produced by any dog on this course in six hours of running. They were not disappointed, for Killarney Mist was pointing—with a style more superb than any of them had expected ever to see in an Irish setter.

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"You may flush your birds, Mr. Marsh," the judge instructed; and Jim stepped in ahead of the stylish little bitch. The result was a single bird, and Killarney Mist was perfectly steady when her master shot into the air as the quail sailed away.

Someone in the gallery remarked, which was true, that a find like that of an unmarked single was worth a bevy find any day in the week. Of course, on a marked bird, the credit would not be nearly so great.

Killarney Mist was ordered on. She went with new life and renewed interest. Her find had struck fire to the spark of her eagerness. When his watch showed only fifteen minutes to go, Jim began to crowd her, for he saw that she was going to go the route. His wish now was for a fast finish. And his fondest hope was more than fulfilled! With ten minutes still to go, one of the judges rode up alongside of Big Jim and spoke to him, contrary to all custom.

"Ever hunted that little bitch in the South before, Mr. Marsh?" he asked.

"Never till ten days ago," Jim answered.

"I had it figured about like that," said the



"YOU MAY FLUSH YOUR BIRDS, MR. MARSH"

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judge, "and I'm going to say something to you now that I have never said to a competitor under me before—I'm actually sorry she can't win. I didn't like her a bit that second half hour, but she's going to finish with a creditable heat, Mr. Marsh, of which you may well be proud. Why, she's trying harder right now to find a bevy than she has since she's been down. She's going to finish with more punch than any dog we've seen, and, considering her condition, I think she has shown more real *heart* than any dog I ever saw. I'd give a lot, sir, if she were mine."

Never before had Jim Marsh thrilled as he did at those words. This tribute from the judge meant infinitely more than a lucky win could ever have meant. There isn't so much in mere winning—as in playing a poor hand well. Jim's heart was pounding as he glanced again at his watch. Only five minutes to go! He knew that not even a bevy find now could win over the pointer that had run a great heat and found five bevies on the second course the day before. But what a climax it would make to finish on game!

"Go o-o-o-n, girlie!" Marsh called to Mist

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across the stubble and Killarney Mist went on. Tired though she was, that call from her master spurred her to a speed that one would not have believed possible at the finish of a two-hour heat. Her brace-mate was simply carried off his feet. The little Irish setter finished her endurance race with a headlong burst of punch and power. But not even all this effort could carry her to birds—they simply were not there.

“Take them up!” the judges cried, and those two awful hours were over. For Jim Marsh, that meant that the trials were over. His faithful little setter was his first and only thought. A machine was waiting and he drove with her straight to town. There he took her right up to his room in the hotel—no kennel now for Killarney Mist. After giving her a good, cool drink of fresh water, he took his own bath towel and rubbed her down. Then, for the first time, he noticed that those two hours of running had done more than had all the hours of massaging he had spent to reduce her breasts. That of itself told what she had gone through. But it was all over, so he tossed aside the almost

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empty bottle of camphorated oil. Nothing mattered now. They were going home.

Jim packed, then bathed and shaved. They were all ready to take the early morning train. When he went down to supper, he left Killarney Mist still lying comfortably on a folded blanket in the corner of his room—where she had earned the right to spend the night. Jim ate but little. The best his plate contained was carried upstairs later, with other things added, for Killarney Mist.

It was a lively and joyous evening. The winner of the stake had run a great race, over an excellent course, and he had found five bevvies of birds, which he handled well. There were long rounds of congratulation and celebration. It was late when Big Jim Marsh climbed the stairs to his room—and to Killarney Mist. She was still lying where he had left her, but she looked up when her master entered the room. He knelt down beside her and took her beautiful head between his hands. Then, looking deep into her understanding eyes, he said to her softly:

“ ‘More *heart* than any dog I’ve ever seen’ —that’s what the judge said today. That’s

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what you won—that tribute! It was more than I'd have dared to ask, old girl. You hadn't even a chance to win the Championship—but, what you did do was more than enough." He pulled her over into his lap, right on the floor, and sat there holding her, talking to her and caressing her for a long, long time.

And that was Killarney Mist's reward. For her that was enough.

CHAPTER III

THE TRAILER

A TYPICAL early September day for the prairies of Manitoba was drawing quietly toward its close. In a comparatively few minutes, too, would the judges be ready to render their decisions with which would conclude the Fortieth Annual Field Trials of the old and honored Manitoba Club, whose Prairie Chicken Championship is the highest honor a bird dog can win in the North. As the senior judge turned to face the waiting gallery breathless for the verdict, the setting sun seemed to hang suspended for a minute as if it, too, must know the names of the winners before passing on. Then it slipped silently out of sight over the rim of the western horizon.

At the present moment the names of the winners of that year are immaterial to us—even of the champion himself. But, as the riders turned back toward the little town, and

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the buckboards began bouncing homeward, there could have been noticed a meager, middle aged man who seemed to slouch in his saddle as if from a weight that had become almost too great to bear. One of the judges, chancing to glance that way, said to his companion:

"I wish we *could* have seen our way clear to place Joe's dog in the money—he sure *needs* a win."

"Looked pretty much his way until the second series, didn't it?" came the comment from the brother official. "Yes, I, too, wish Juniper hadn't 'cut his throat' when we brought him back. He was high dog then, with me, and I hoped he'd hold it."

"So did I," added the senior judge. "D'you know I don't believe Joe's placed a winner in several years. Don't see how he gets by. Bet he can't much longer."

The younger judge paused before replying, as if trying to find proper expression for some thought, then he said: "Knows dogs, too, from A to izzard. I wonder what's the reason he never goes over, Bill?"

"That's easy enough. He's just like a

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trailer—not enough initiative. No punch or pep to his handling. Doesn't inspire his dogs. Result is they generally do their work just about like he handles. He's had many a potential winner, if he'd only had enough snap himself."

"Guess that's it," was the answer, with which they dismissed the subject and spurred up their ponies to a quicker clip toward town. The trials had lasted late and they were hungry.

* * * * *

Some months following the incident above recorded, a typical tramp shuffled slowly up the long lane leading to a big white colonial home surrounded by many acres of beautiful shade trees, beyond which stretched vast reaches of stubble and standing corn-stalks—the best kind of cover for quail. This, then, was in America's Southland, as far removed as could be from the wide prairies of Manitoba.

"Boss home?" asked the tramp of a negro who was raking pebbles from the ruts of the road.

"Reckon you'll find him out huntin'," was

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the answer. "Might be 'long mos' any time though!"

The tramp went on. No one was in evidence, until he came to the rear of the main building. There he found another negro, and was about to address him, when, at the barking of several dogs, he suddenly turned and looked in the direction of the sound. That seemed to give him a change of thought and he said:

"See you keep dogs. How many?"

"Lordy, man, I don't know. Reckon mebbe master does. But they's shore a heap of 'em!" answered the darky solemnly.

"What kind?"

"What *kind!* Say, where you from, anyway? Everyone in Mississippi knows we all keeps only *bird dogs*."

The tramp whistled. "Guess I'll wait around for the boss to come home," he said. Then added: "Mind if I go back to the kennels and look 'em over?"

Just a little suspicious of his general appearance and mindful of many previous admonitions, the negro eyed the tramp with some doubt, then, apparently deciding he had

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already done enough work anyhow, he said: "I'll go 'long."

And that is where the master of Malvern found them when he returned an hour later from his hunt, two beautiful setters following obediently at heel. That hour had flown rapidly for the tramp. Greedily he drank in the details. There were few such kennels in America as those of Malvern. The runs were spacious and well drained. The beds for the dogs were individual boxes with clean canvas laid over daily-changed straw. The evidence of the constant use of disinfectant was detectable to the trained eye of the tramp.

The master was first made aware of the presence of a stranger by the bristling hair on the backs of the setters with which he had been hunting. Then he approached with the inevitable hospitality of the southern gentleman.

"Wade's my name," he said. "Are you interested in setters?"

"Sure am—any kind of a bird dog. My name's Joe Shramm," said the tramp, advancing and extending his hand. For just

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an instant Colonel Wade was taken back by the ease with which he did it—but anything goes between two lovers of good bird dogs, so any hesitation passed as quickly as it came. With the advent of the colonel the dogs became again the absorbing subject of conversation and every detail of the kennels was gone over again and again. Then, when a break might have come, they chanced to get into the matter of pedigrees, and the rapidly passing time flew faster than ever. They were interrupted only when a darky approached with the announcement of supper—then the colonel was all apology. He regretted having kept his friend so long. Would he not sup with him? That is what a mutual fondness for bird dogs will do for one—it knows no distinctions of class. It did not even strike the colonel as strange that Joe at first declined—until urged beyond the possibility of refusal. And all this while the colonel knew not whence or why he came.

Six seasons earlier the mistress of Malvern had passed on to the great beyond, and now the colonel's only daughter was away at school, so there was none to disturb the flow

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of dog talk that filtered through the smoke produced by the host's very best cigars. The meal was prolonged almost unbelievably, following which the absorbing topic was carried by the new-found friends to the sanctum of the colonel's study. Those who may be numbered among the fanciers of the hunting dog will understand naturally how all this could be; and others will simply have to take our word for it. Ask someone who knows, however, and it won't take you long to have the statement confirmed that there is nothing which will so draw two souls together, or cause the time to flee so fast, as the subject of bird dogs and quail hunting. Thus it all too soon grew late, and, when Colonel Wade finally aroused himself to a realization of the hour, he became embarrassed to believe that he had kept the stranger unduly long within his gates.

"My soul save us, suh," he said, "it's afta midnight! But I'll have my nigga hitch and drive you to town myself—or might you be persuaded to wait till morn and breakfast first? We rather pride ourselves here on our good coffee and hot biscuits. What say you?"

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Joe Shramm realized that his time for confession had come. He had no destination. He was not bound for town. He had no money for a meal. And Colonel Wade had made those morning biscuits seem so tempting! So he faced the issue fairly and said:

"Yes, Colonel, I'll stay, and thank you. Fact is I've just been wonderin' if you might not need a first rate kennel man, with all the dogs you got? D'you ever have any of 'em trained for the trials?"

"You mean field trials?" asked the colonel quickly.

"Sure—I'm an old handler," but as quickly as he'd said it Joe seemed to shrink up within himself, and volunteered no more.

The colonel would not have it that way, however. Not once all evening had field trials been mentioned, all the talk having been centered on hunting to the gun. Now the colonel became more interested than ever. He had never seen a field trial. In fact, thereby hangs a tale. In the adjoining county lived Major Martin, the colonel's closest friend since boyhood days, an ardent field trial fan. Each season they would shoot to-

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gether, and there was always great rivalry over their dogs. The Martin dogs, so claimed the colonel, were too fast and too wide. The Wade dogs, so claimed the major, were unnecessarily cramped in their range, sticking too close to the gun. Yet neither had ever been able to change the other's views. The fact was that they usually averaged up about even in the number of birds bagged, with the colonel, perhaps, having just a little the edge. Two things, however, Colonel Wade failed to take into account: In the first place, he had always been a better shot than the major, though he had always been too much of a gentleman ever to say so; and the major would never have admitted it, if he had. Thus this phase of the nearly equal average bags had never come up. In the second place, the Wade dogs unquestionably excelled on single birds. The Martin dogs found far more bevvies, but disliked to be held down to work on singles, and did so only under pressure. This *was* a point that *had* been discussed time and again between the old men. Colonel Wade insisted that his dogs stick to each bevy until he had thinned it down prac-

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tically to extinction. The major took the opposite view of it. Said he liked to enjoy the thrill of seeing the dogs race away to find new bebies, after killing three or four out of each—and that this was a good thing for the birds.

“And you’d say so, too, Colonel Wade!” he’d exclaim, “if you had dogs as would do it!”

The reader may gather that it was really the colonel’s superior marksmanship which was holding the major to even terms in the matter of the bag. If you do so gather, you get the correct impression we wish you to have. Which, as we have said, was the one phase of the thing that had never been discussed. The thing that had been discussed, however, was a definite contest for a heavy wager. The decision was to rest solely on the number of actual points delivered and properly handled so that a shot might follow. Each side was to run two dogs at a time and the contest was to cover six hours. No consideration was to be given to speed or range or style—what we term “class” was to have nothing to do with it. Nothing counted ex-

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cept actual points, bebies or singles alike to be called one point each. Any and all dogs legitimately owned by the respective contestants were eligible to compete, and might be shifted about in any manner desired—just so only two dogs for each side were down at one time. This, then, was the nature of the match which had been all arranged with the date set for a month from the day the colonel had met Joe Shramm.

Colonel Wade stood for some time with his back to the slowly dying embers of the grate fire, his hands behind him in his favorite attitude of contemplation. Finally he said: "Suppose we talk it over tomorrow—that is about your taking charge of the Malvern Kennels. But let's call it off for tonight. If you say so, we might have a little hunt tomorrow. So the sooner we tuck in the better."

The big feather bed almost enveloped Joe when he dropped wearily into it a few minutes later. Then, after only a short interval, it seemed, so soundly had he slept—it was morning.

His host had not overestimated either the biscuits or the coffee and Joe ate too many

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of the former to count, and drank four cups of the latter.

"Now let's get the dogs an' be off," the colonel said shortly after they had finished.

The thing that continued to impress Joe Shramm was the great number of dogs—more than any one man could possibly shoot over. Yet the colonel had said he was not a follower of field trials. The strangeness of this caused Joe to remark regarding it.

"Just my hobby," the colonel answered. "Every man should have a hobby. I *must* have, with so much time on my hands. With my father it was horses, but with me it's been bird dogs. Yet I seldom sell a dog. Give them away, mostly. I was told the other day, though, that this was not fair to the professional breeders—and I don't know but that's right. Guess I'll have to sell 'em hereafter so's to help uphold market values."

"Why don't you go in for the trials?" was the perfectly natural question that Joe Shramm found himself asking.

Colonel Wade did not answer at once. Then he said slowly: "Well, suh, d'you know I reckon they's two reasons. One is, I just

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never got started in 'em; an' the other is, I've always had a notion they weren't *practical*."

The applicant for the kennel job at Malvern did not answer at the time, and the colonel named the two setters selected for the hunt that day, and told a negro to bring them. Then they went back to the house, selected guns, and were soon ready to sally forth. As they were walking slowly through the first field to the west of the kennels, the dogs still at heel, Joe looked up at his host and said:

"What's that snappy little, heavily marked bitch I noticed back yonder in the east kennel, next the main run?"

"D'you mean the one with so much black—an' the tan trimming? She's the Champion Jersey Prince. Lots of fire, but no foundation. Only one in the kennels I didn't breed right here."

Joe ventured a statement: "I've a notion she'll develop, if rightly handled an' not brought along too fast. Looks the likeliest of the lot to me. How's she registered?"

"Betsy Ross," answered the colonel. Then

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he smiled, not really with unkindness, but as if in rare good humor at having trapped his guest into a bad predicament, and said: "I doubt if the way you size up the little bitch is much of a recommendation for the job of kennel manager you're after."

To which Joe answered quickly: "I'll venture to work her for six weeks an' beat every other dog you've got, either one at a time, or 'gainst 'em all put together. She'll beat 'em any way you take 'em."

The colonel would not have taken the remark seriously, coming casually—but here was a man who through an entire evening had impressed his knowledge upon the master of Malvern. And the positiveness with which Joe had made the assertion could not be lightly passed. But the colonel had yet one question to ask him—a question which, he felt, would throw Joe off his feet.

"How d'you know that?"

"*I know dogs.*" The answer was as crisp as the question.

Colonel Wade was, above all else, a sportsman. Always had been—always would be. Here was a man who had piqued his pride—

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had suggested that the only dog he had not bred would prove the pick of the pack. Nevertheless, he could not get away from the very sportsmanship of the statement Joe had made. So he countered with a proposition, equally brimming with the utmost spirit of sport.

"Very well, then, I'll take you up. You start today as kennel manager of Malvern. You have full charge and full authority. At the end of six weeks, if you can show me that Betsy Ross is the best bird dog in the kennel, you get the job *permanently*—if you still want it."

Holding out his hand, which the colonel grasped quickly, Joe simply said: "That's a bet." By this time they had reached the far end of the pasture and Colonel Wade sent his setters on. They went away gladly and the hunt was thus begun.

Later, as they were coming home in the twilight, after what had been a wonderful day, Joe turned to his new employer and said: "I get to keep the job if I prove to you Betsy's the best bird dog in the kennel—but do I lose it if I don't?"

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"Well, we'll see about that later," the colonel answered, after an instant's hesitation. "No need to commit myself now—it's enough to know that in that case I can keep you if I wish, and you're willing. Let's let it go at that."

* * * * *

Joe was formally installed next day as kennel boss at Malvern. In the afternoon he took Betsy out for a run, and for an hour she performed under a most critical eye. He liked the way she went away, and the eagerness she put into her work. Every inch of her was *class*. Her new handler found out, however, that Betsy was not broken. This was something he had not known. But it was confirmed by the colonel that evening.

"I didn't think Betsy was worth bothering with," he said.

"Guess I'll work her with one of the older dogs tomorrow an' see if I can't get her stopped up on birds," the new kennel boss told his employer.

The surprise of Joe's life was about due. It came at promptly ten o'clock next morning, when he cast off Betsy for a heat with

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Malvern Monarch, the colonel's special pride. The day before she had gone off gayly. She had run wide and well. Now, with one of the slow gun dogs for company, she seemed to wind all up in a knot. She never got straightened away. Everywhere that Monarch went, she went too. When he turned, she turned—and when he stopped, so did she. In short, she *trailed* him every inch of the way. When Joe picked her up at last, his heart was sadder than it had been for some time. He appeared so spiritless that the colonel inquired as to the cause, fearing he was not well.

Joe faced the issue. He was no coward, either moral or physical. He looked his employer fairly in the eyes and said: "I reckon I'm licked—again. I've just found Betsy's a *trailer*."

"What d'you mean by the 'again'?" the colonel quickly questioned—but, without waiting for an answer, asked another: "What's a trailer?"

Ignoring the first question, Joe answered the latter. "A trailer," he explained, "is a dog that don't have enough mind of his own.

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He always follows the other dog, instead of striking out on his own account to find birds. He simply shadows his brace-mate. His trouble is lack of confidence in himself when in the company of others."

The colonel asked many questions; and all were answered. He learned that a trailer may be a superlative worker when alone. He learned that there are all kinds of trailers: those that always stay behind their brace-mates; those that try to run even with them; and those that trail head-on. Many dogs try to hide their failing, and head-on trailers often do so except to the experienced eye. No dog is proud to be a trailer—for it's a mark of weakness. It's an admission of a lacking initiative.

"What's the cure for it—if any?" asked the colonel.

"Work 'em alone," Joe told him. "But some are never really cured altogether. Just work 'em alone. Then, if they love to hunt, they soon realize there'll be no birds found unless they do it themselves. Thus, on their own resources, some finally get over it entirely. Others improve. Some are incurable.

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Betsy's pretty bad now—an' I pick her to be a hard one to bring out of it. But the thing that may do it is her great love of hunting. She's one of the keenest I've ever seen. That's why I hate especially to see her trail."

Shortly after this conversation, Joe changed tactics. He took Betsy away from the kennel and began making a pal of her. She followed him everywhere. He never corrected her for any error at this stage of the game. Joe might be reading. If one of the other dogs had come up, he promptly would have received the command to lie down. Not so with Betsy. She might with perfect impunity nuzzle her head in under the book or newspaper and so stand until having had her fill of petting. Thus, in many ways, her confidence gradually grew under much careful encouragement.

Each morning and each afternoon Betsy was taken for a run of half an hour. But always alone. And always she ran well. Joe feared to test her out again with a brace-mate—delaying the day as long as possible. If, by her growing confidence in herself, she might gradually drive out her lack of initiative when

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in company, much would be gained—and toward that end Joe worked. He knew he faced a long, hard job.

As all this was in process, however, a new angle developed. Joe began to feel for Betsy a love such as he had never given any other canine in all his life. Everything he had he put into this job—Betsy *must* be saved from herself. One thing he had found out. Barring her one great failing, she was a prodigy. Worked alone, her speed was splendid. Her style was matchless. Her range excellent. Her nose was almost perfect. And her judgment of the birdy spots was improving every day. If she would only perform in public—and with a brace-mate—as well as she had in private, Betsy Ross could win any field trial, in any country, in any company. That was the conclusion to which Joe Shramm had come. So Betsy got from him more of his very inner best than he had ever given before. And Betsy paid him back in kind.

But was Betsy still a trailer? Joe continued to delay the day of another test.

“No hurry—there’s time enough yet,” he

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said. "If she's over it, there's nothing to gain in crowding matters; an' if she's not, why I'm using the only right treatment I know, anyhow."

About this time Colonel Wade went away. He was gone for a week. No one knew where. He did not tell.

But when he came home, he questioned Joe more closely than ever on the subject of trailers in general—and Betsy in particular. Joe caught himself wondering as to this sudden spurt of interest, but came to no definite conclusion regarding it—and soon forgot the thought entirely. Just the same, he continued to feel that the colonel was studying his movements with an intentness that had not been manifest before. He gained the impression that his employer was right at his elbow, ever ready to urge him forward should he for an instant falter in the effort with the little bitch. Yet, though the colonel may not have known it, Joe needed no such spurring on. His great and ever growing love for Betsy served as a stimulant, such as he had never known. No canine pal before her had ever so won his heart as had she. Thus he put

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into her development all that he had of canny canine knowledge—more than he had ever put into any job before. *And such effort must always bear fruit.* There is no failing when brain and heart and soul combine to fight any job through. Gradually, Joe became conscious of wanting to win more for Betsy's sake than his own. And when that condition entered the situation, the battle was as good as won—for unselfishness is ever a powerful factor.

And how Betsy responded! Joe's love for her was equaled only by hers for him. All this climaxed the day she stepped on a thorn and refused to quit hunting. On three legs she gamely hobbled ahead and only the find of a bevy brought her in. What style! Head up, tail up, paw up—but that paw was bleeding from an imbedded thorn an inch long. Joe flushed her birds, then grabbed her in his arms, and drew her close to him as he removed the thorn with the aid of a knife. Yet she never flinched.

"You game little darlin'," he crooned to her, over and over again. "Why should *you* ever trail a brace-mate, honey? They's none

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to equal you—you don't *have* to take a back seat for none of 'em. You belong right out in front. And that's where you're goin' to be hereafter."

And, strangely enough, Betsy seemed to understand. At least, Joe sensed that she did—and determined to run her with a brace-mate the next day.

It had somehow for the moment slipped his mind, however, that said next day was that on which the big match was to be run between the colonel's dogs and those of Major Martin. Funny he should have forgotten it even for a minute—but then anything was possible for Joe when he was engrossed with Betsy. That was excuse enough for forgetting anything. This special match of his employer's was but small matter compared with the really important job of developing Betsy and bringing her out of her fault of trailing.

At noon next day things did not look so bright for Colonel Wade. The Martin dogs had found and handled perfectly eight bexies to his three. And they were well ahead on total points. Birds killed were not counting—this was not a contest of the gun. The

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colonel sensed a feeling of concern, and so expressed himself in confidence to Joe.

"Well, Colonel, to be honest with you, an' that's what you want now—he's got you out-classed with what you got down, but there's a chance for you to win yet, if you'll take my advice. Only one chance, though," Joe added as he turned to release in the opposite direction the surplus juice from almost more tobacco than one mouth could carry.

"What's the chance?" asked the colonel as quickly as he could.

"Let me substitute Betsy^d for Shot this afternoon," Joe answered with a confidence that was contagious.

But the colonel could not be quite convinced. So the afternoon heat was begun with Shot still representing the colonel's colors. An hour went by—and Major Martin's dogs were piling up the lead. The situation became desperate. Colonel Wade again consulted his kennel manager. Again the answer was the same.

"But if I don't put her down soon," he added, "even she can't overcome the lead they've got on us."

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Colonel Wade knew that he was beaten—it could at least do no harm to make the change. So he now made quickly the decision that had already been delayed too long.

“Where is Betsy?” he questioned crisply. “You can’t get her here for an hour, can you?”

“Betsy’s always with me, Colonel,” Joe Shramm answered. “I’ll have her here in five minutes”—and he galloped away.

Six minutes later he could be seen topping a little rise of ground in the distance, his horse coming toward them at full speed—and on the saddle in front of him was the little black and white bitch in which he was pinning his faith. Quickly, the steady Shot was whistled in—and, as soon as he had been leashed, Joe gave Betsy the signal to go. *And then he held his breath!*

Away she streaked it with a speed that had not been seen that day, even on the very first cast of the morning. She apparently had not noticed the other dogs and so there was no trailing. Wide and well she went and many eyes popped wide with wonder. Betsy had but two hours in which to close up a gap that

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was all but impossible. Yet she buckled down and seemed to understand what Joe demanded—and, somehow, she seemed to realize, too, that Joe's future was at stake. Dogs do grasp such things, you know, when you really get close to them. And the way Betsy Ross ran that day she really gave the other dogs but slight chance. She reached all the birdy spots ahead of them. She always had the outside cast. The only chances they had at all were on beviess she might have missed—yet she missed not one, and so the tide turned toward the colonel. And when it thus turned, Major Martin had nothing at command with which to stem it. Yet as he watched his competitor's bitch stretch herself out to field trial proportions, he realized that he was beaten only by a better dog of the same type as his own.

"Well, Colonel," he said after the race was over, "I guess I win the argument even though I may lose the bet."

"How's that?" These old army officers were quick on the triggers of their tempers.

"Why, it took a *field trial* dog to beat me—I had your others licked to death. But



SHE HAD BEATEN HIM TO ONE OUT OF THREE BEVIES ON HIS OWN TRAINING GROUND

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where d'you get the little beauty, anyhow?" he added.

And that same evening Joe Shramm got his job on a permanent basis. But before it was concluded, Colonel Wade had asked a question and received his answer. The question was:

"Did you know that Betsy wouldn't trail when you asked to put her down today?"

"Yes—and no," was Joe's answer—then he explained it. "I thought she might trail; but I felt sure she would not trail long. I'm not sure yet that she won't trail a bit if started right off with another dog in a regular break-away. The old habit may hold on. But in a long heat she won't keep it up. I have her picked to be a great long distance dog. She's of championship caliber. Once in a while she may still trail enough to look bad in a short heat—but she won't keep it up long; and in time I'll have her over it entirely."

Then it came the colonel's turn to talk—and he did. "Remember the time a while back when I went away for a week and didn't tell where I was going? Anyhow, I'll tell you now. I went to the Mississippi Trials.

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Not only to see the trials, though, but to inquire about you. That's why I never told you. I'd made up my mind then that you could stay, whether you won that little wager, or not—so I just wanted to check up on you. You told me you'd been a handler on the circuit, so I figured someone at those trials would know you—and they did."

Joe turned red and looked up at his employer, manifestly confused.

"And may I ask, sir, what you learned?" he said.

"You may, Joe. I was told that you were absolutely to be trusted so far as your honesty is concerned; but I learned that you were always considered a failure as a handler."

"Did they think I don't know dogs?" Joe asked with an eagerness such as he seldom felt.

"They said no one knew them any better. And I've been wondering ever since about what they did say—because it was the same pronouncement you yourself had just made upon a certain little setter bitch in this kennel."

"What was that?"

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"That you were a trailer," answered Colonel Wade.

"What, me—a trailer?"

"Yes, you a trailer. They said you knew dogs better than most of them. That you knew how to train and how to handle. But that you never put any life into your work. That you were not aggressive enough—and I learned that aggressiveness means a lot in winning a trial. That you lacked pep and punch. That you were content just to follow and let others lead. That, they said, was the reason you had always been a failure."

"And still you kept me on?" Joe murmured.

"For just one reason—yes. The same things they told me about you were exactly what you had yourself been telling me about Betsy. Yet you were betting on Betsy, so I thought I'd bet on you. *And we've both won.* When I let you handle Betsy this afternoon, I kept wondering if you'd start to trail even if she didn't. You both surprised me. You fairly carried the major off his feet. You dominated the situation every minute of the time."

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For some time Joe was unusually silent as he let the colonel's words sink in. Then finally he said: "Every word you've said's the truth, Colonel, and I never realized it till now. No one ever told me. But, say—this afternoon I just *had* to fight for Betsy, she was going so great. She was an inspiration."

The two pals—Colonel Wade and his kennel manager—sat silent for a long time. At last the stillness was broken by a single remark from Joe: "D'you know, Colonel, I'll never be a trailer again."

"And I believe it," said the colonel. "I just felt as much this afternoon."

"Do you really, Colonel?"

"Yes, Joe, I do."

"Then I'm goin' to ask you a very great favor—something I'd rather do than anything else on earth—an' I wouldn't fail you. I'd—like—to—take—Betsy—to—the — prairies — next—summer—an'—train—her—for—the — Manitoba—trials." Suddenly he leaned forward, electrified by the very thought—and grasping the colonel's arm he breathed scarcely above a whisper but intensely, "An' we'd neither of us fail you, Colonel."

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Joe Shramm's enthusiasm was beyond resistance. It was inspired. For the first time in his life he felt the spell of a great determination. The spirit of the thing reached the colonel, and—"I believe you, Joe," he said. "In fact, I'd almost believe tonight that you and Betsy could win the Manitoba Championship."

"We can," said Joe Shramm, lips pressed together with the firmness of a conviction such as he had never known.

And they did.

CHAPTER IV

THE MEETING

JOE'S spirits were soaring so high he felt as though he might be floating on air the night Betsy was declared winner of the Manitoba Chicken Championship. Her win broke the long string of reverses he had known. Field trial headquarters were at Antler, N. D., just across the line, and Joe's soul was singing as he entered the little hotel of this far northern town, the scene of so many field trial gatherings. At the desk he was handed a telegram, which he read at once—and the news made his heart stop still. "Colonel Wade died suddenly last night," it told him, without a word of warning.

The message struck Joe as a blow in the face. His love for his new boss had grown deep indeed. From the heights toward which he had been sailing, this news plunged him down to earth with a thud. He stumbled up the stairs to his room, where he sat feebly

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fumbling the crumpled yellow message for a long time. Then he remembered Betsy had not been fed and this thought brought him to his feet at once. That was his first duty. He went down and collected the choicest morsels he could find. The brave little bitch gulped down greedily the food that would have tempted even a sick dog—and she was well, and hungry. He brought her fresh water and clean straw, then Joe shuffled his way slowly back to the hotel. He tried to collect his thoughts, but found it hard. What ought he to do, he wondered—what *could* he do? It was too long a trip to Mississippi to get there in time for the funeral—and Betsy was entered for the All-America Trials next week. Should he stay and run her—or go right home? But what could he do after he got there? It was a grave problem—and, in any event, he needed the winnings he believed Betsy would earn in the All-America. Still wondering, he stumbled back to go to his room and try to think it out.

In the office, as he was passing a little group, he heard someone say, "That's him"—and a big man separated himself from the

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others and confronted him, grabbing his hand in an iron grip. He held it firmly, saying not a word, and Joe took it he was being congratulated on Betsy's great win.

"Thanks," he said. "She ran a heat they simply couldn't beat."

"Yes, I know she did—I've heard all about it, though I've just come. I'll be here to see her myself next week, and I hope she repeats. But, Joe, *don't you know me?*" and the strong right hand gripped harder still, so that Joe actually felt pain.

Joe Shramm looked him straight in the eye, and the span of years began—

"D'you remember our last hunt," the other asked him, "when you got home with only two quail—and a hole in your hunting coat?"

It was all too sudden—and too much at once. Joe felt his long-dry eyes starting to fill up, and he feared to trust himself to speak. "C-o-m-e," he managed to say, and led the way to his room. There he dropped into the first chair and motioned his friend to the other. "Jim," he almost gasped, "you're here—and I sure need you!"

The years turned back kindly for them and

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they were just two boys again. These years had made men of them—but each heart was unchanged. They talked and talked and the boy hearts of them poured forth into the wee small hours. They talked of the hunts they had had—of those together, and those since. Each learned of how life had handled the other. Jim Marsh listened to the story of Betsy Ross; and Joe Shramm to the story of Killarney Mist. Their paths had strangely never crossed—largely because Joe had not handled a winner since Jim had taken up the trials, and thus his name had not come to notice in any reports of the winners for several years. That is how Jim had not learned of Joe through “The American Field.” Killarney Mist, of course, had been named among the winners—but Joe had not kept up his subscription, only getting occasional copies from time to time, and so had easily missed hearing of Jim through the winnings of his Irish setter. Joe learned of Jim’s business successes—and Jim of Joe’s failures. Nothing was omitted as the long hours of the night whiled themselves away. When they finally thought of bed, it was as late as the

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same hour had been early on that last hunt so many years ago. Joe showed Jim the wire giving the news of Colonel Wade's sudden passing—and Jim soothed him as no one else could have done. His practical mind handled the situation in the only way possible under the circumstances.

"Let's figure that out later, Joe," he said—"after I've had a chance to think it over. We can do nothing now. Those things have happened since the world began—and we can't stop them. We'll sleep over it and then plan. But I'm convinced, now you're here, that the only thing to do is run in the All-America. Colonel Wade has passed on and you cannot help him by rushing to Mississippi. Your own destiny lies ahead—and we must work that out. By tomorrow I may have a plan—in fact, I think I have one now. Tomorrow's Sunday, and we'll have all day to talk it over. First one up call the other. Good night, old friend," and Big Jim Marsh went to his own room.

They both slept late next morning, but, once up, it didn't take either of them long to get down to breakfast. Afterward, they

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strolled around to see Betsy, with a small bowl of dry toast and milk into which Joe had broken a couple of raw eggs. The little bitch was feeling fine and frisky, so they took her for a good long walk to wear off some of the wire edge. Then they returned to the hotel and joined a group of fans who were discussing the rise of the pointer and the fall of the setter. This discussion lasted until they all went in for dinner.

"Joe, let's go up to your room again," Jim suggested as soon as they had finished eating a hearty meal. "We might as well start a sort of preliminary discussion of the plans I've been thinking over since last night."

As soon as they were comfortably seated, Jim opened the discussion with a question: "Joe, have you ever thought anything about our game situation in this country today?" he asked.

"Sure," Joe answered promptly.

"In what way?" came the next question quickly.

"Well, it's getting worse, I know that," said Joe.

"Yes—that's easy—but have you ever given

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any thought to what we're going to do about it?"

"No, can't say as I really have," Joe answered frankly. Then he added: "That's up to the state game departments, isn't it?"

"It is—if fellows like you and me are content to stand by and see it get continually worse," Jim stated with the force of conviction. "Listen, Joe—you'll remember it's almost time for the squirrel season to open back home. Just before I left to come up here a closed season was declared on them. The reason given was that the trees have been cut down to such an extent that squirrels can't find enough homes. So they've simply declared a closed season on squirrels—but they have said nothing, and done nothing, about trying to bring back the supply of trees! Yet lack of trees, by their own statement, is the real reason for a shortage of squirrels. If that be true, how can squirrels increase—whether we shoot them or not—unless they do something toward reforestation?"

"Sounds reasonable—but I haven't hunted squirrels for a long time, Jim. Have you?"

"No—but that's not the point. It's the

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principle of the thing I'm trying to point out; and it's been the same with the quail, the prairie chicken, the grouse, the wild turkey, the woodcock and all other species of our native game. The fact is that our state game departments—with the exception of a few like Pennsylvania—stand as colossal failures; and they can never be anything else unless they are taken out of politics. The very idea on which they're founded is wrong anyhow."

"Don't you believe in having game wardens?" Joe asked quickly, showing some surprise.

"Most decidedly I do," Jim told him—"but wardens whose duties are based on different fundamentals than at present. In the effort—which was started too late—to save our game in this country, the natural first thought was *protection*. So far so good. But this has led to too much protection and no *propagation*. The result is we are having less and less all the time to protect. Let's put it in terms of dollars and cents. I doubt if any game warden actually saves fifty dollars' worth of upland game birds in a season. Yet if a large part of his duties might consist of *production*,

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each warden could *produce* many thousands of dollars' worth of game each season. We've had overprotection and underproduction."

"By golly, I believe you're right," said Joe, "but I'd never thought of it before. Things have sure changed since the old days, haven't they, Jim?" he mused.

"Yes—they've changed, Joe," and Jim smiled sadly. "But about the matter of protection—the state departments haven't gone far enough even in that. That is they've gone too far in one direction and not far enough in another. Their first and only thought seems to be to cut bag limits and seasons. Yet what outstanding job has any state ever done to protect game from its natural enemies? I ask you that. Has any state department ever really made any big move to protect the quail from the crows, the hawks, the foxes, the snakes, the stray house cat and all these other creatures which annually destroy more of both young birds and eggs in the nest than all the hunters on earth? I tell you *NO*. All they've given us is constantly *less hunting*—and then they think they're doing some good. That's really a *harm*, for it tends to kill off

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the outdoor hunting instinct in our race—which Theodore Roosevelt so rightly maintained was vital to the stability of our American manhood. What we need to do is to learn how to have more and more hunting—not less and less of it. And we can, too, if we but will. In parts of America we have reduced our seasons to practically a few days each year—not enough to keep the instinct alive! Whereas in England they have seasons that last months and months—and still much more game than have we. Why, Joe, they have so much game today in old England that their dogs don't have to hunt hard enough to find it!"

"What's the answer?" Joe asked him.

"The answer is simply that we have got to *pay more* for our hunting than we ever have before. You don't expect to play golf without paying the price. Figure it all up and I'll venture to say that every game a golfer plays will cost him at least ten dollars—when you count dues, balls, caddies and all incidentals. Yet the very same fellows expect to get their hunting at a cost of a paltry dollar a year for a license. And it simply can't be

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done. To make golf possible you must first acquire the land; then, at great expense, this land must be cultivated and developed into a golf course. The same procedure will be the case with hunting under the new day that is dawning—you'll have to get your land to hunt on, either by lease or purchase, and then you'll have to cultivate and develop game on that land. It's going to cost, just as golf costs, and those who won't pay the price—simply won't have the hunting. Of course there may be public hunting preserves, just as there are public golf courses, but even on these hunting will have to cost more than a dollar a year."

"You believe the old free days are gone for good, then?" Joe questioned him.

"Yes—and I'm sorry. I'd rather hunt in the old way—the way we used to do, Joe, when almost every farm was hunting ground and we scarcely even had to bother to ask permission. But that's simply not in the wood any more; and it's one thing—or nothing. Congestion is here to stay, whether we like it or not—and so are the automobile and good roads. The 'out of the way' places

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are growing scarcer. Thousands of people can go anywhere today, where such was not the case when you and I were a couple of kids. We've got to *meet* the new conditions—not continue to dodge them like ostriches, hiding our heads and trying to refuse to see. Take Ohio, for example. In that state more than four hundred thousand citizens annually take out a hunter's license. The law gives ten days to shoot pheasants. But there is always one Sunday, and sometimes two, in that ten days—with no Sunday shooting. That leaves nine days, and some seasons only eight, with a bag limit of two cock birds a day. Thus each hunter is legally allowed, and in return for his license should rightfully have available, some eighteen cock birds to kill each year. Now bear in mind that each of the four hundred thousand hunters are entitled to that many birds. That would mean that Ohio should be obligated to make available to its shooters a supply of seven million two hundred thousand cock pheasants each season. And even that would allow no surplus for breeding to restock the state for another year! Now it so happens that cock pheasants cost

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something like three dollars each. So if you multiply that by seven million two hundred thousand, to get the cost to the state of furnishing to its hunters that to which the state has declared they are legally entitled, you will arrive at the figure of *twenty-one million five hundred thousand dollars!* Can the state deliver that many dollars' worth of pheasants out of a total revenue of less than a paltry half million? Just figure it out for yourself—and let an accountant check back the figures. But that isn't all! I've given you the figures for pheasants alone—not mentioning rabbits or grouse or Hungarians or any others of the different species of game birds mentioned as having legal open seasons in Ohio's rather peculiar game code."

"Good gracious, Jim!" his friend exclaimed, "is it as bad as that?"

"Worse," was the quick reply. "Do you know what the ammunition manufacturers report is the use to which many of the shells are put, which they sell in Ohio today?" Jim answered his own question, without waiting for a reply. "The ammunition manufacturers say that many of the shells they sell in

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Ohio are shot at tin cans by disappointed hunters who have not found in the fields the game to which they are entitled by law in return for their license rights. Which brings up another point," Jim added. "A state license to hunt is worthless for more reasons than one. It can give you no right to trespass on any man's land. The state says that the game of the state belongs to the people thereof. Yet if any farmer refuses the hunting permission, the state cannot force him to grant it. Thus it is really the farmers of Ohio who control every piece of game in the state—and that's the fact in the case, whether the state likes it or not. Thus the state hunting license is merely a ridiculous piece of poppycock! And that's as it should be, for the land owner is the one who really controls the game—and, in the last analysis, is the only one who can or should control it. Yet the state persists in trying to kid its citizens into another belief—collecting annually from its hunters a meaningless toll of some half million dollars, which is often dissipated politically, and in return for which little or nothing is delivered. What I wonder is how long

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these four hundred thousand hunters will continue to be so long suffering!"

Jim glanced at his watch and noted the hour. He excused himself and went to his room. He returned in a few minutes with a magazine, which he handed to Joe and said: "Here's an article entitled 'WHAT WILL OUR SONS SHOOT?' It's short and very much worth reading. I've got to run up now to bathe and shave before supper—was too tired last night after our long session. You read this article and we'll talk game restoration again—you can't cover it in one sitting, or many. We can have a big pow-wow on the train going home, after the trials. I haven't yet told you the scheme I have in mind. See you in a little bit for supper—and then the drawings. Wish I'd brought Killarney Mist, but then she's out of shape and hasn't ever had any work on chickens anyhow." As soon as Jim had gone, Joe started to read the article in the magazine, and this is what the writer had to say:

* * * * *

I cannot approach the subject of our game situation in this country without feeling subtly

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stealing into my very soul an almost prayerful mood—because I realize how dangerous is the ground we are treading—how easily we can be misled—how vital it is that our *thinking be sound* and our *facts correct*.

It is only fair to state that I believe I read in the trend of the times an indication that seed is being sown which is bound to bear fruit of the right sort—in *time*. But even though this be true, I am equally sure that we are a long way from the ultimate goal. To reach any destination, however, demands that we make *progress toward it*—and I am sorry to say that, while I believe some of us are getting over on to the right track, *too many of us are going the wrong way!*

A syndicated news item on trapshooting appeared in one of our local papers last December 3rd. In that article I find this statement: "*As the game in this country decreases, trapshooting will increase and become more popular.*"

Why in the name of conscience *should* game decrease in this country!

There is only one reason—and that reason is this: we have been both on the wrong

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track, and going the wrong way. Now, as I have said, I think I see indications of trying to get over on to the right track. But what may even that profit us if, even though we be on the right track, we are headed in the wrong direction!

Here are just a few facts. Let's look them over. But, more important still, let's *think* them over. The total annual production of shells in this country, of all ammunition manufacturers combined, is something like seven hundred millions. *Yet in little England—only about the size of our one state of Illinois—they will produce and use almost half that many!* Just *think* of it. If England were our size, she would consume some twenty times as much sporting ammunition as America. And England was old England when we were but a pup. What I mean is simply this: England has never gone on the theory that game must needs become extinct as a nation grows old. She has simply *not permitted it*. While we, on the other hand, have just assumed that as we grow older the game will go—and we don't know what to do about it.

And here's the amusing—and *pitiful*—fea-

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ture of the whole thing. We are constantly crowing that America has never copied the English game supply system. *I'll say we haven't!* But it's nothing to boast about. It were better that we shed tears.

It all gets down to this, as I see it: *What* is it that we want? Is it to maintain a theory that has failed? Or shall we consider the end as more important than the means? In the answer to those questions lies the answer to our future game supply—the answer, by the way, to the question which heads this article: *What Will Our Sons Shoot?*

For they will never be content merely with clay targets as against a real day afield, behind high class dogs as partners, with actual game as the object *and the result*. This is in no wise a reflection against trapshooting. It is a splendid sport. It can be excellent practice. But to me and to many thousands of others it can never take the place of the real thing. There is not the variation. There is not the healthful—and needful—exercise. It does not *glow* as does the hunt itself.

And the facts bear me out in this. It might surprise some of you readers to know

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that the annual total of shells shot at the traps is not even a fair small percentage of the field consumption—even today in this country. The true answer, therefore, to the perpetuation of sports afield with dog and gun lies in *the perpetuation of our game.*

My own present conception of the answer to our game situation dates back to the day, several years ago, when I leased (for a nominal sum) the shooting rights on a thousand acres of excellent territory. The cover on this land was teeming with bob-white quail, but a misguided state legislature has written into the records that these shall henceforth bear the stigma of "song birds." They are killing about as many quail in our state today as they ever did—just the same as we are drinking as much gin as ever. But that is another story—and, anyhow, my state's game department is really *more to be pitied than scorned.*

On this hunting territory, which I had leased—at a sum within the reach of anyone who *really wants to hunt* (some only *think* they do)—I successfully propagated ring-neck pheasants. I have made a start with the Hungarian partridge. And, later on, as a

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large part of the cover seems to be ideal, I expect also to introduce the ruffed grouse. Never have I made any investment which has produced more healthful happiness than my modest investment to give myself a real shooting preserve. Tramping those beautiful acres I have spent some of the happiest hours of my life. There I have educated puppies on game. There I have trained and developed field trial dogs.

Let me tell you some of the things my experience with a shooting preserve has taught me—for therein lies its only value in publication. I had been as heedless a hunter as any other. I had taken my toll where I found it—with nary a thought of the morrow. But that wouldn't do in the new scheme of things. I found myself jealously watching my supply—and taking only what might rightly be looked upon as legitimate surplus. Never but once in three years did I kill more than three pheasants in an afternoon—and the day of that exception I had invited a guest. No game warden's watchful eye could possibly have been as effective as the natural law of supply and demand. I found myself thinking

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in terms of conservation—but more especially of *propagation*, and the latter is the answer to it all. It's more important to *produce* something to protect—than simply to dream and theorize on protecting something that doesn't exist.

And so that is the first great truth my experience taught me—to apportion my shooting according to the permissions of my surplus. This led me to think in similar terms of game anywhere, and so today, no matter where I am hunting, my natural instinct is not to kill beyond what the manifest supply seems to be *able to spare*. I have been led to think and ponder much over the game situation nationally—all based upon the fact that I am, myself, contributing in perhaps humble measure toward what I am firm in feeling is the ultimate answer to our game problems.

For you've got to be part of a thing to appreciate it. You can't just sit along the side lines and get much out of what's going on. You won't know what it's all about—not fundamentally. *You've got to get into the game*. And until we sportsmen in America do all get into the game individually, we're not go-

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ing to get far in the right direction. We've got to quit "letting George do it." He may be a willing worker, but he can't make the grade alone.

I believe we must turn right about face in our thinking on the question of game. We have been overly firm in our faith that our game belongs to the state or nation with equal privilege for all to enjoy. But here's the snag—all the state can do is grant us a license to hunt. That license cannot determine *where* we may hunt—and gives us no right to trespass upon any man's land without his consent. Thus the farmer holds the real, and only, key to the whole situation and to him we must look for our hope of the future. State ownership of game is ridiculous—with the farmer holding the whip hand and no incentive given him to do anything *for* the game he commands. Under this so-called state guardianship we have seen our upland game fading mighty fast. The plan has failed. Being fundamentally unsound, it could do naught else. Well, then what's the answer?

Here it is. Put the whole proposition up to the land owner—where it belongs. Tell

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the farmer his game is as much an asset as his corn or his wheat or his cotton. Suggest he cultivate it—and cash in on it. Teach him to rear and raise an increasing supply. Tell him about the need of killing vermin and all other creatures which destroy eggs or young birds. Instruct him to leave little patches of cover here and there. And tell him to *charge* for the right to shoot on his land! That way makes it worth his while. That way we'll have game in abundance. For the farmer is at hand on the job. His asset will vanish if he lets the supply drop to where shooters will leave him for some better territory. He can govern the bag limits in the lease, based upon surplus of supply. Then you'll find the farmer seeing to it that the game is there. What incentive has he now? *None*. Worse than none—for in the bottom of his heart he realizes that the game on his place is his, and even when he now grants the privilege to shoot on his property, he does so resenting that the state charges a license fee from the shooter without providing a payment of any kind for him. It's ridiculous, when you come to think of it—but we don't

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think enough, and that's part of the trouble. Yet even though it may be unspoken, right in this thing lies, I believe, one of the greatest difficulties today in connection with seeking a satisfactory day afield with dog and gun.

"But what of *me!*" exclaimed a man I was talking with the other day—"I can't afford, as you do, to lease a place and propagate my own game. What would I shoot—and where?"

"Clarence," said I, "here's what you can do. You can form a little club of twenty-five fellows, and in total you *can* do it. Have officers and dues and rules. Restrict each day's shooting to the number the territory will stand. You could work it out fine."

"Special privilege," said he.

"Oh hell"—is what I felt like saying, but what I did say was: "It's that, or *nothing*, Clarence—and it better be *that*."

That "special privilege" talk always gets my goat. It's a special privilege to ride in a Packard when most of us must be content with some sort of jitney. Of course my thoughts indicate special privilege. Why speak with what the Indians called a "forked

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tongue"? But our whole lives are based on special privileges of one sort or another. All this country is supposed to offer is the *opportunity* to secure special privileges for one's self.

Opportunity must not be restricted in this country. But what one makes of his opportunity—is another matter. It's a free country, yes—but that doesn't mean the freedom to run wild.

Let's attack the thought from another angle. You can't buy fifty dollars' worth of anything any more for a dollar—be it shoes, shells, sausage or shirts. And no longer can we expect to get fifty dollars' worth of game in return for a license fee of only a dollar. We've *got to get down to cases* now on this game question. It would be fine if the supply were inexhaustible, and we could enjoy it forever on the same old basis, as we perhaps once thought we might—but the facts that we can't are so irrefutable that a mere mention of them is all that we will take space for here. We've got to *pay more for our hunting* in the future than we ever have in the past—and those unwilling to do so simply won't get the

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hunting; and that's all there is to it. Those unwilling won't deserve to, either.

Mere so-called protection of game is rot. We've had an era of overprotection—and underproduction. *And it is PRODUCTION that counts.* We've got to produce—and if we go at production in the right way, we can have more and more game as time goes on. As it has been, we've been having less and less. We soon won't have much to protect—unless we turn about and get on the track I'm talking of—and get headed in the right direction on that track.

Perhaps a few figures will help. Just for sake of example, let's take Massachusetts. The hunters in that state number approximately 100,000 annually. Each of these is allowed six male pheasants, if he can get them. That would totally exhaust 600,000 pheasants. Yet last year the fees paid by sportsmen paid for the liberation of only 15,000 pheasants—or *only one-fortieth enough to go 'round.* The theoretical right to kill six hundred thousand pheasants is one thing—but to *have the pheasants to kill* is quite another. Yet by the plan I propose we would

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have them. What I am strong for is more and more of the sport, rather than less and less. Why stick to a worn-out theory that entails continual and constant curtailment? We have a beautiful theory—but while we've been petting our pretty theory, *England has been producing game*. They *have* hunting over there, while if we keep on, we'll have merely the *memory* of it.

A year ago, when I attended the annual Game Conference in New York City, a gentleman from Connecticut asked for opinions on a certain proposal. A private shooting club in that state proposed to raise great quantities of pheasants. One-half of all they raised were offered free to the state for release at large, for the benefit of any or all, in return for this concession—that, on their own territory, the members of said club be not restricted to any given bag limit *during the open season*. It was the sense of the expressed opinions that this would be O.K. So far so good.

But why not go farther! Why place restriction on the *open season*? That's all the club asked, I grant you. But why not go

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them one better? Why not say to them this: "Yes, on your own territory only, kill all you want *at any time*."

"What! Give them a perpetual open season?" you exclaim.

Sure. Limited, you understand, to their own land and their own production. They wouldn't abuse it, you may be sure. I've spent money on game and I know how one feels about it when he does. But suppose they should kill a good many—they couldn't kill more than they produce. And the more they produce the greater the half thereof that would go to the state. In other words, the more those fellows would kill, the more free birds the state would have for other sportsmen to enjoy.

I'd rather have said to that club this: "No, you may not bag more than the daily lawful limit at any time—but you need not restrict yourselves to the open season." I would have countered with this proposal for the reason that personally I favor a *long season rather than a gluttonous one*. I'd rather see three birds killed per day for a hundred days, than see a hundred killed per day for three

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days. I favor *prolonging* the pleasures and the spirit of the sport. I detest slaughter. I favor the greatest possible number of days afield that the surplus supply of game will afford.

And that will make for a bigger and better—healthier and happier—outdoor America.

We have too many thoughtless—too many selfish—hunters. We will be better off without all of these that we might lose under the new system—for a new day *is* dawning. The man who is not willing to pay for his sport—to contribute in proportion to what he takes—deserves no consideration. We'll all be better off when he puts his gun away for good. We can lose him—and be glad of his loss. The mere game hog has no place in the future of field sports, which lies ahead.

If the new system does no more than kill off the killers, it will be more than worth while.

But for the rest of us—those who pay and produce—those who think and contribute—who enter into and play the game for more game—these are destined to get a very much deeper pleasure from field sports than they

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ever have before. For I am sure that the different angle and attitude which I am predicting is the destiny that lies ahead—and all real thinkers who know conditions and tendencies are in accord with me. Furthermore, we can then look for more and more hunting all the time—rather than less and less, as it's been going.

What can *you* do about it? Just this—put your shoulder to the wheel and help to speed up the dawning of that day!

For PRODUCTION is to be the watchword of the future—and production will *perpetuate* our sports afield. That is the message we must teach to our sons. If we teach it well, there will then be no question but that they will have a bounteous plenty to prolong indefinitely, even down to their sons, the pleasures of the field.

* * * * *

Jim appeared on the scene just as Joe laid down the magazine. The former had made his toilet quickly, while the latter had read slowly, thinking deeply over what the article had said.

“What d’you think of it?” Jim asked him.

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"Fine," Joe answered quickly. Then he added, smiling: "I have a kind of an idea the plan proposed in this article has something to do with the scheme you say you have in mind. Am I right?"

Jim Marsh flicked the ashes from a cigarette before he answered. "I see," he said, "that you see through things in the same old way."

There was a tone of sadness in Joe's reply to the compliment, as he answered: "Well, perhaps," he said somewhat slowly—"but there's a terrible difference between us, for you're the one who"—and then he stopped.

"I what?"

"You're the one who sees things through," the answer came.

Big Jim laughed, and took his old friend's arm as they started for the dining room. "That only makes us all the better as a team," he said, "and hereafter we'll see things through together—after you've seen through them for me."

CHAPTER V

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BETSY ROSS did not win the All-America Chicken Championship. She ran a great race, but the breaks, which had favored her in the Manitoba, were slightly against her here, with the result that the best she could do was runner-up. Earlier in the week, however, she had already won the All-America All-Age Stake, carrying a splendid purse, against competition fully as fast as the Championship and a field that was twice as large. Joe was glad he had been persuaded to stay over for these trials, for they swelled his funds very materially and made this the most profitable prairie trip he had ever taken. Still he was glad when they were over and he could start for Mississippi, for he felt called upon to go there as quickly as he could.

He and Jim left on the same train, to ride together as far as Cincinnati. Betsy was

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checked with them, in the baggage car ahead—the only champion Joe Shramm had ever handled, and he was justly proud. His mere pride would have been as great in any event, but the big purses she had won for him made it doubly keen. As the two friends settled themselves in their seats for the long journey, they each took out their pipes and clouds of smoke were soon issuing therefrom as mute evidence of complete contentment.

“Now, Joe,” Jim started the conversation, “you go on through to Mississippi and see what you can do to help them get straightened out down there. You’ll perhaps have to stay until the dogs are sold—and handle that for them. That’s about all you can do now, I should think. Then you hurry right on back to me and we’ll start our preserve. In the meantime, I’ll be getting things shaped up and making plans. I’m crazy for you to see the territory I have in mind—the best I’ve ever hunted over. You wouldn’t think there could be a place like it in our whole state. Been in the same family since the original grant in 1814. Four thousand acres of it then, and still nearly half of it intact.

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Talk about good cover—man, oh, man!”

“I’m just as anxious to see it,” said Joe, “as you are to have me—but, of course, I must first be fair to Colonel Wade, who was so fine to me.”

“Sure you must,” Jim answered, and for a while nothing more was said. They didn’t need to talk, these two, who had so much in common—both of the past and for the future. So there was silence for quite a time as the train sped onward. It was Joe who finally broke it.

“I’ve been thinking a lot about this proposition,” he said, “and d’you know I just can’t get out of my head the fellows who love to hunt, but can’t afford to do as you’re going to—if that’s what we’re all coming to, as you believe it is.”

“As *we’re* going to do, you mean,” was the answer—“not me alone. Well, then, Joe, let’s talk about it. Let’s start by covering the matter of costs. Shells cost twice as much to-day as they used to—and guns—and hunting clothing—and boots—and dogs, that is, the good ones. Everything costs more, so we’ve got to pay more for it. Can’t get away from

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that. And hunting itself is going to cost more, too—either cost more or have less. You can't get away from that, either. The price of equipment pertaining to hunting, as everything else, has gone up—except the cost of a license; and that is the money that is supposed to be used for the protection and propagation of game for the benefit of those of us who pay the license fees. Against rising costs in everything else, the cost of a hunting license has not varied. The only result there could be—and that which is the case—is that those of us who pay the fees are getting less and less for our money. We'll keep getting less and less, until we get nothing at all—or, we'll have to pay more, and start mighty quick to do it. It's one or the other. Suppose there are just a few who can't afford to meet the new situation (which I very much doubt)—is that any reason why the rest of us shouldn't have it? Is it fair to say that *none* of us may have it just because *all* of us can't!"

"You're right again, Jim—I can see through that," Joe smiled.

"And I'm going to see it through," was his

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friend's answer, with the firmness born of trained determination. They fell silent again for a while. The train sped on and on. The two friends puffed away at their pipes. It was Jim who finally renewed the conversation.

"This thing," he said, "of thinking you can furnish all things to all people is out of the question in this day and age. It sounds well and they like to hear it—but it's only kidding them. For instance, suppose some poor fellow from Ohio, for example, would like to go deer or moose hunting. Is the state prepared to see that he gets it? Why, of course not! Only those of us may have moose hunting who are able to go where it is. It's going to be the same way with other kinds of game. We've got to go get it. Do you mean to say that no one should be allowed to hunt moose simply because it is an expensive sport that must be denied to many of us?

"Or, take duck shooting," Jim continued. "The best territory in the Middle West is along the Illinois River. The better part of the water frontage is controlled by duck clubs; and what isn't is controlled by the

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guides, whose services are ten dollars a day. If Bill Jones, a poor man from Ohio, can't afford to go to Beardstown, Ill., for a real duck hunt, is that any reason why I should not go if I can and care to? You'll agree that this is one form of special privilege that can't be denied me. Yet what fundamental difference in principle is there between this and making available for myself a little better hunting nearer home, of a kind I happen to prefer? It's not selfish—for I'm not taking anything away from anyone else. Merely making possible a little something extra for myself. As I said before, we simply can't furnish all things to all people."

Joe was refilling his pipe. As soon as the match was applied and the smoke well started, he advanced a thought of his own. "I'll tell you one thing, Jim," he said—"a lot of fellows don't deserve all the effort the theory of free hunting costs. Ever hear of a golfer playing with borrowed clubs? Yet how many so-called hunters use borrowed guns! Most of these are such cheap skates they don't deserve what they get. Many of them are men who could contribute some-

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thing to the cause of game restoration—yet they contribute nothing; they just take. The fallacious theory of free hunting for every Tom, Dick and Harry has simply turned the whole proposition topsy turvy. That's the thing that has caused people to expect too much and give too little."

Big Jim Marsh threw his arm around his friend's shoulder and laughed aloud. "By golly, Joe," he said, "you're coming faster than I thought. You're looking down in under the surface and seeing through it."

"Yea," Joe smiled. "But now I'm getting hungry. Let's go into the diner and have lunch."

Over the salad Jim looked at his friend and said: "You mentioned golf a bit ago. Ever play?"

"No," was the reply.

"Well, anyhow," Jim continued, "that gives me a new thought. No one has yet demanded that golf must be furnished free to all. They have never taken the stand that no man may play more golf than another. Of course we are getting more public courses all the time—just as we *should* (but don't) have

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more public shooting grounds. But they're not saying there should be no private clubs for anybody just because everybody can't indulge in golf. Yet that is exactly the attitude of some people on private preserves for hunting—that nobody may rightfully indulge in these simply because everybody can't. There are private preserves, of course, but the states claim the right to say what and how much may be shot thereon—even though the owners may have gone to the expense of so stocking them that a great deal more shooting might be done without cutting too heavily into the breeding surplus. Isn't it funny—and ridiculous—that there is such state intervention in the sport of hunting, yet nothing of a similar nature in the sport of golf?"

"Yes, it sure is, when you come to think of it," Joe answered. "I wonder why it is?"

"That's easy. And it's based on a developed habit of thought. Our forefathers had all the hunting one could ask for, of all kinds of game. Thus has lived the idea that hunting is for all. On the other hand, the early attitude toward golf was a supercilious one. Those who didn't play didn't envy those who



THEY WOULD GO TO THE FIELDS EARLY AND RETURN LATE

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did—they just poked fun at them, and pitied them. Thus golf was saved from the envious attitude that holds down hunting. I wish that everyone might have hunting—just as I wish everyone might have golf. But they can't, any more—and there's no use crying over spilled milk, nor in trying to sour the other fellow's. We can—and I believe will—have hunting in America, and good hunting, for all time to come. But it will be on a different basis. The old free days are gone forever, more's the pity! However, when all's said and done, where there's a will there's always a way, and those who want to bad enough can find that way to hunt—rich or poor—and those really don't deserve it who don't truly care enough about it to work to find the way. I hate jealousy—and jealousy is hurting hunting today more than anything else."

They went back to the smoker and lit their cigarettes. For endless miles the train rolled on—for miles and miles and miles. The inactivity of the long ride made them both drowsy and they went back to their seats, where their eyes soon slipped shut in sleep.

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Later they read a while, and then played cards. Neither of them was hungry, so they went in late to dinner, after which it didn't seem so long before the porter was making up the berths for the night. The next day they reached Chicago, where they changed trains for Cincinnati.

After breakfast they went again to the smoker, where talk was resumed. Joe started it. "One hears so much kicking against posted land," he said. "What's your reaction to that, Jim?"

"It's simply inevitable," was the answer. "Just one of the many penalties we are paying for what's gone before."

"How d'you mean?"

"Well, our forefathers thought they owned the right to hunt—which they did until somebody else began to own the land. Then we began the pioneering of a new situation. The hunters thought the world was theirs, and were careless of the landowner's property—of his stock and his poultry, his fences, his gates and his crops. Then the worm began to turn—and the landowner finally said, 'They shall not hunt.' Now we're learn-

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ing to ask permission before we trespass—but the learning came too late, and we of today are paying the penalty. In the wilderness the right belongs to him who is there; but in civilization the right belongs to him who owns the land. When the farmers began rightfully to realize that they did not have to submit to trespass, then came posted warnings against it. It's simple as rolling off a log. Personally I am in favor of posting—it serves to remind us of the futility of the state's license, and that we must respect the rights of those who are the controlling factors in hunting. And, be it said to their credit, I have never yet been refused permission to hunt on posted land. Posting is simply a warning to see the boss first. If we had always done that, and then respected his wishes and his property, we might not today be paying the penalty."

"In the South," said Joe, "most of the land is leased up for hunting, and posted. In the North most of the posting is not to preserve hunting—but to prevent it. What d'you think's the answer to that situation?"

"The answer is *education*—just like it said

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in that article I gave you to read up at Antler. Teach the farmer to cultivate his game resources, just as he does his wheat or his corn—and to sell it under shooting privileges; teach the states that it is the landowner who can and should do this; and teach those who would hunt that they must pay for it hereafter.”

“There’s one good thing I see in that,” said Joe—“whereas today the states can afford but a straggling few game wardens, we would then have every farmer acting as such in protection of his own property, namely his game supply.”

“Sure, that—and something else even more important. We’d then have active propagation of game, as well as protection. We need both—but the former is the more vital of the two. And speaking about protection, the chief protection game needs is from its natural enemies, if we are to have hunting. Take the quail, for example. Their enemies are man, crows, hawks, snakes, house cats, skunks, foxes and numerous others. Yet the only protection most state game departments have ever given them is against man alone—

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leaving all of their other enemies practically free rein. Wouldn't there be more sense in it if they'd give at least some of their attention to the other enemies and thus augment greatly the supply for man to enjoy? The quail have a dozen enemies, yet the states in their protection methods have centered on only one of them. The birds can withstand one enemy—but not the whole dozen combined. And the one who pays the bills for the protection is the only one who loses. We serve them to the crows instead of on the dining-room table. And the crow has no bag limits and no closed season—neither have any of the others! There's a cartoonist down home who thinks he's the Heaven-sent savior of the quail; yet he has never drawn one cartoon hitting at any of their enemies except man." Jim touched a match to another cigarette as he finished this comment.

"Of course, Jim," Joe said, and smiled, "the people who are against all hunting are largely responsible for that sort of thing—and those folks somehow never do think very far through things. They forget entirely the Creator's law of the survival of the fittest—

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and that it was He who so ordained things that one species preys upon another. He could certainly have planned it otherwise had He chosen to do so. The fact that He didn't, takes it out of man's hands, I'd say. But the sentimentalists never think of that. Furthermore, they never think far enough anyhow on any subject. For instance, take the quail again. If you would protect him from the crow and the skunk, why not protect the bugs the quail feeds on? These insects are just as much God's creatures, I guess, as anything else. Size is purely relative, anyhow, and just because they're small is no reason to forget them—if we're going to be consistent. Which we so seldom are!"

"You said it there, Joel!" Jim exclaimed with enthusiasm. "Now let me make a confession. There were seven years after you left home that I didn't hunt at all. The worm turned with me and I couldn't bear the thought of killing anything. Then one day I read a book by a fellow named Long and two of his chapters impressed me especially. One of them was entitled, 'The Glad-some Life' and the other was, 'How Wild

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'Animals Die.' In these two chapters he made it clear how the Creator has provided for the working out of the law of the survival of the fittest. In the wild state birds and animals do *not* live in constant alarm and dread. Thus they are saved the suffering of anticipation. And in death they do not undergo what a human being would, surrounded by all our artificialities and the softness that has grown out of civilization. Thus God has Himself softened the thing—something that mere sentimentalists never think of, or do not know. Thus it came about that I again took up my pleasures afield with dog and gun. But I did it, I think, with perhaps a keener appreciation of the thing than ever before. It is not the fact of killing that I enjoy—but the things that lead up to it. And I always give the game more than an even break, with a sporting chance."

They were both silent for a while, when Joe asked a question: "Jim," he said, "d'you think we'll ever *sell* game again in this country?"

"How the devil did you happen to think of that?" Jim countered.

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"Oh, I don't know—I was just wondering. I hear they still do in England."

Then Jim answered him: "When we learn over here to raise game, as they know how to do it in England, we can sell it as they do over there. They still sell rabbits on the market back home and the result is there's less sentiment against rabbit hunting than any other kind. And the same thing will carry over to other game if the time ever comes that it can be sold. Prohibitionists, of all classes, usually take delight simply in depriving others of things they can't have, or don't care for. Of these, the ones who don't care for hunting are against it. But when they can buy and have the same game the hunter gets, most of their opposition will vanish in thin air. There are few, if any, who refuse to eat lamb for sentimental reasons—or pork—or beef from a cow that has been hit in the head—or a chicken that has had its neck chopped off without a sporting chance. When the present sentimentalist can buy and eat a wild duck that he hasn't skill enough to kill himself, nor sporting instinct and endurance enough to go and get on a

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bleak and raw December day—he'll forget all about his sentiment in the delicious eating thereof. There'll be no difference then between duck and lamb, so far as sentiment goes."

Again there was a long break in the conversation—then this from Jim: "They never seem to figure out the truly logical thing in connection with the protection of game. Take the pheasant, which has been introduced, and which I've hunted a lot of late. The bag has been three cock birds a day; but they've now cut it to two. I'm not kicking about that, for I'm not sure but two is enough for anyone. However, let me give you something I've noticed out of practical experience. Pheasants carry away a lot of shot and are thus hard to bag. They'll run for miles with their wings out of commission. Those you don't knock cold, you'll lose—if you don't have a good dog to follow and find them. Many of these may die later and thus have been wasted as well as destroyed. Others will linger on and some recover—others don't. Needless destruction as well as needless suffering are caused. Killarney

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Mist has failed to retrieve just one pheasant in five years, either dead or alive. Every season, after the first day, she is constantly bringing me crippled and suffering birds that someone else has wounded and not found. I deplore this condition—for I know that the waste of game by those hunting pheasants without dogs is greater than the legitimate kill. I deplore the needless suffering even more than the waste. If the state had made a law requiring that one might hunt pheasants only over trained dogs, I am convinced that this would save ten times as many birds as cutting the bag limit a bird a day. I believe almost every pheasant hunter wounds, but fails to find, more birds than he ever puts in the bag—and yet he's within the law! He may kill or wound ten birds daily, yet if he recovers but two it's perfectly legal. How much better to require him to hunt over dogs and have them retrieve to him the better part, or all, that he knocks out of the air! Killarney Mist does it for me—which proves that it can be done. But they never think of that—and perhaps wouldn't heed if they did. The result is that we who are really inter-

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ested in the true welfare of sports afield are paying the penalty."

"What we need most in this country," said Joe, "is more sportsmen of the Roosevelt type—men who feel the fibre of our ancestors, who know its value and are an influence toward preserving it in our national life."

"You're dead right," was Big Jim's only comment.

CHAPTER VI

THE PARTING

AT CINCINNATI the two friends parted to go their respective ways—temporarily. Betsy Ross was taken from her crate and given fresh water and a chance to stretch her legs on lead. She leaned into her collar, showing how much she would love to run. Joe's train left first and Jim saw him off. He urged Joe to be sure and write—to stay as long as he was needed—but to come as soon as he could be spared. Fifteen minutes later Jim's own train pulled out of the station.

It was only a comparatively short ride home from Cincinnati for Big Jim Marsh; but for Joe there were still many miles to cover through Kentucky and Tennessee before he reached Mississippi. Yet he did not mind these miles—there was so much to think about. And events had been moving so fast since his reunion with Jim that there had been no time to think. That is, not medi-

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tatively. But now he indulged in it. He realized what a great fondness he had formed for Colonel Wade, who had taken him in when he was down and out. He knew how much he would miss him. Yet somehow his sense of loss was gently softened by the coming of Jim again into his life, with all the promise that held. It was good to contemplate how understandingly Jim had accepted his tale of many failures, when Joe had told him of them during the running of the All-America Trial. It was a wonderful thing to have a friend like Jim. It is usually the old friends that count most, after all, if they have not changed—that is if the way of their hearts has not—and such was the case with Jim.

The long miles were spanned almost quickly while Joe simply sat and dreamed, absorbed in his contemplations. Finally his thoughts turned to the things they had been discussing on the long ride from Antler to Cincinnati, and he found therein much for his mind to assimilate. At last he reached what had been his most recent home. It was a sad home coming indeed, for Colonel Wade

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had been much loved by all those about him, none of whom had been prepared for his sudden loss. One of Joe's first acts was to visit the new grave, where he paid silent but deep tribute to the dead. Then he picked up the threads of duties seen to do—and there were many. There was not even the faintest trace of the "trailer" left in the new Joe Shramm. All that had flown long ago, after that last talk of his with Colonel Wade. Joe seemed almost to anticipate the things to do—and gave them prompt and effective attention. He was a tower of strength in time of trouble. Joe Shramm had at last come to himself, and what they would have done without him cannot be defined.

Back home, Jim Marsh was equally busy—and more happily so. For he was getting ready for Joe's return and equipping their hunting preserve. He had a cozy cabin built from timbers felled right on the ground—a cabin with a great stone fireplace that would furnish cheer and comfort during long fall evenings; sitting in its warm glow they could live over again the events of the day. Splendid kennels were constructed, where

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the dogs could be kept right on the grounds. Then there was the matter of breeding-stock to be secured, as it was Jim's intention to propagate with ring-neck pheasants, perhaps adding other species of upland game birds later. The month was September and too late for his birds to multiply until the following spring. He bought and released a good supply, however, so that he might have some shooting at once during the current fall.

One of Jim's first acts was a careful investigation of the state's Game Code and this led to the discovery that he would have to take out a pheasant breeder's license under Section 1436 of this code, in order that he might exercise his rights in connection with the propagation he had undertaken. Inasmuch as it was Jim's every intention to operate only in good faith, and since the season was so late that his stock could not multiply until the following May, he finally decided to forego any shooting for another year, and bent all his efforts toward the perfecting of conditions in the way of suitable cover and feed for the birds, and such as would provide

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the most pleasant hunting conditions later on. There were a thousand acres in his preserve, of the best hunting cover in the whole state, and he cherished the thought of the days that were to come, when he and Joe would roam those wide fields together with their fast dogs racing beautifully ahead of them from one likely looking spot to another. Everything was simply ideal. The open acres were totally surrounded by woods, which formed a natural inclosure that would contend against too much promiscuous wandering on the part of the birds. By the same token, this woods would serve to discourage outside birds, not Jim's property, from coming into his preserve.

Large painted signs were posted all about the property, announcing that it was a private hunting preserve, and Jim spent many happy days working his dogs on game that falls without a gun. Often, at the end of these runs, he would cook his own supper, and food for the dogs, at the cabin. Sometimes he would spend the night there, with the dogs about him, and dream of Joe's return. He lived on in blissful ignorance of certain jeal-

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ousies which were creeping into the situation due to the fact that he was enjoying a special privilege on posted land—but a fire was smoldering which was destined later to blaze forth and give Jim Marsh a rude awakening.

For a long time he had been looking forward to the arrival of a certain litter of puppies, the mating plans for which had been worked out months in advance. In due time, the puppies came and the logical place to rear them seemed to be at "Hole-In-The-Woods," the name he had given his hunting preserve. Arrangements were made with the tenant, whose wife loved puppies anyhow, and who was glad of the opportunity to make a little something extra quite as easily as she could with her chickens. She made a hit with Jim Marsh when she told him that she thought young puppies were even cuter than babies.

At the age of only three months, the puppies began to wander out into the fields and hunt of their own accord. Instinct was calling them—and this early evidence thereof brought great delight to their master. Then one day the great blow fell without warn-

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ing. Jim was in town when he received the telephone message announcing that every one of the puppies had died under conditions that bore evidence of poisoning. Big Jim Marsh threw all his energies into an effort to trace the thing down—and he did trace it down to the extent of establishing beyond doubt that it had been a case of poisoning by some one of the many whom he learned were jealous of the pleasures with which he had surrounded himself. But there was one thing he never learned—and that was the name of the guilty one involved. Woe indeed would have befallen the miscreant could Jim have found him out. The only outcome of the whole thing was that his findings served as a warning that this was no place to raise puppies, nor even any place to leave his grown dogs unattended. Accordingly, the use of the kennels he had built at the cabin was abandoned. Perhaps when Joe got there they might be used—but Joe would have to be cautioned about the constant danger to their dogs. The loss of the puppies was sad enough in itself, doubly so when Jim realized that it robbed him for an-

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other season of a Killarney Mist puppy to take her place in field trials when she was through, and he had been planning to retire Mist from the competitions as soon as one of her puppies might come along and show the right sort of promise.

Months passed and there had been no word from Joe since the one long letter he had written soon after his return to Mississippi. But Joe was a poor correspondent at best, as Jim well knew, so he was patient on that score. In due time, Joe would be heard from—of that he was confident. Jim himself had written several letters keeping his friend advised of progress, even though these letters remained unanswered. Thus the fall days passed and another new year came. In November, Jim spent three weeks hunting quail in a neighboring state, and Killarney Mist had never before been so good on her game. What the years were taking away from her in speed, was replaced by greater experience and a constantly keener judgment in hunting. On January 1st, Jim sent in his application for a breeder's license to the state game department; and later the same

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day he wired Joe to learn if he could meet him for the National Championship at Grand Junction, Tennessee. The answer came back promptly: "Will meet you National Championship. Planning to start Betsy there."

The meeting of these two fast friends, in the historical old field trial center of Grand Junction, was fraught with as much enthusiasm as had been that other meeting on the prairies of the far North. Joe had great news to impart. Colonel Wade had shown the depth of his heart by leaving Joe \$1,000 in his last will, which had been drawn just a few days before his sudden death. In addition to that, he had provided for the transfer of the ownership of Betsy Ross to Joe Shramm. It was hard to tell which gift Joe appreciated the more—but Jim Marsh had a strong suspicion that Betsy meant much more to his friend than could any amount of money. He learned with pleasure that Joe had fulfilled all his duties and moral obligations to Colonel Wade and planned to return home with Jim immediately after the National Championship. Thus the long days of

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waiting were over and the two friends were reunited now with the outlook of no further separations.

It is hard to tell which of them got the greater kick out of Betsy's magnificent race in winning the National Championship—whether it was her new owner and handler, or his friend who had not missed even the minutest details of the performance. And what a splendid performance it was! Jim was first of the many to grab Joe immediately after the judges announced their decision, and his powerful grip made Joe's fingers ache. But his heart was so glad that he didn't mind a little thing like that. It is doubtful if he could have been any prouder of Betsy than he was before—but it would be impossible not to feel a keen gratification at winning a purse that was fifty percent in excess of the amount Colonel Wade had so generously left him.

On the way home, in the reunion that was destined to remain unbroken forever after, Jim learned from Joe all about the happenings in Mississippi since their separation of the previous September; and Joe learned

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from Jim all that had gone on in connection with getting things started at their preserve. It was decided then and there that Joe would make his home at the cabin, which they planned to enlarge for that purpose, but they each admitted that perhaps the idea of attempting to raise puppies there would have to be abandoned.

When they got home, Jim found that the breeder's license had been received and the next step was to prepare the plans for propagation in anticipation of the breeding season during May and June. One of the greatest days they had together occurred in March when they were combing the preserve to make a count of the approximate number of pheasants that remained from the supply Jim had released in the fall. That heat of three hours between Killarney Mist and Betsy Ross was worth going many miles to see. The National Champion and the Irish setter with the field trial record divided honors in a contest that was thrilling from the first whistle to the last. Here was a brace that kept its handlers up on their toes every minute of the time.

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"Gosh, Joe!" Jim exclaimed when the heat was over, "that's as great a race as Betsy ran at Grand Junction."

"I believe it was," Joe answered with a twinkle in his eye, "but the competition pressed her to it—that's the greatest Irish setter I shall ever live to see."

"Yes," said Jim—and then for want of words he lit a cigarette. A minute later he added: "But about the pheasants, Joe—d'you think we ought to buy any more birds this year?"

"No, I don't think so. There are enough here now to produce three times as many as we'll need. But I'll tell you what we might do just for the benefit of the experiment," Joe added a minute later—"we might buy a couple hundred eggs and set them under chicken hens. We may want to do that sometime and it would be a good thing to have the experience."

"That's a good idea!" Jim answered quickly. "I've heard there is a sort of knack in raising pheasants successfully from eggs. I'll order two hundred eggs tomorrow—fifty each from four different sources so as to cut

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down the chances of non-fertility. If we should get them all at one place, we might run into a big batch of eggs that wouldn't prove fertile."

Two school boys couldn't have had more fun than these grown men found in making their plans and preparations for propagating a large supply of upland game birds under natural conditions. Joe was comfortably ensconced at the cabin and Jim himself stayed there about half the time. As he said one day, "I just love to feel hunting boots on my feet. I get keener for it all the time, instead of to the contrary."

Killarney Mist and Betsy Ross, too, formed a friendship that was as firm as that of their masters, and this made them all the more pleasant to hunt over as a brace. This friendship, however, did not lessen the competitive spirit and each was always very keen to beat the other to the birds.

"I wonder if we couldn't raise some grouse in these woods?" Joe asked one evening as they sat smoking before the single log that simmered slowly in the stone fireplace.

"Might," Jim answered, "but I'll tell you

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of another bird I believe we ought to try first."

"What's that?" Joe questioned.

"Hungarians."

"Yes, they'd be dandy." But Joe showed a trace of a smile as he said it.

"What are you smiling about?"

"Well, you see," said Joe, "I have been studying pretty carefully that book of game laws you gave me and I recall quite distinctly that no reference is made to Hungarians in connection with Section 1436, which pertains to the breeder's license. Therefore, even if we do propagate Hungarians, I reckon we'd be limited in the shooting of them to the ten-day open season."

"Right again"—and it was Jim's turn to smile. "Don't know why I didn't think of that—but let's try some just the same. I don't know but that I'd rather work dogs on them than on pheasants, and we could have some great sport during the short open season anyhow. Besides," he added, "we're in this thing on a broader basis than merely our selfish interests, and the state has been very negligent in the propagation of Hungarians

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for the benefit of the license holders, to whom they give theoretically an open season of ten days on this bird. The department owes it to the shooters of this state to produce and provide Hungarians—but they've made small effort to discharge their obligation in this connection—so let's try to do something with the 'Huns'—and see if we can prove anything."

That is how it was decided to add the Hungarian partridge to the efforts being made at "Hole-In-The-Woods" and the next day Jim Marsh ordered a number of pairs of these birds at the price of \$14.00 per pair. He found it was necessary to buy them in pairs since Hungarians are not polygamous, as is the pheasant. In due time the birds arrived and were released within the confines of the very best cover that the preserve afforded. This releasing was carefully done so that the birds might not leave the premises on their first flight. Each pair came in a separate box and these boxes were each placed in different fields and then covered with brush. One board was pulled loose just as the brush was piled on, so that the birds would make their way out slowly

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and be inclined to stroll away into the cover, instead of bursting forth in flight that might cause them to disappear entirely.

The day the Hungarians were released Jim spent the night at the cabin, and during the course of their customary talk that evening, he made a very potent remark: "Joe, do you realize that for each pair of Hungarians we put out today, we contributed more to the cause of game restoration than the average sportsman, who simply buys his license and kills what he can, will contribute in fourteen years?"

"Yes," Joe answered, "that goes for each pair of 'Huns,' not to mention our pheasants."

The experience with the pheasant eggs taught them much. One total batch of fifty proved unfertile. The others showed a high fertility, and 150 eggs yielded a hatch of better than ninety percent. So far so good—but lice killed off a good many and the inexperience of domestic hens in mothering their half-wild offspring cut down the average very strongly. The little pheasant chicks simply ran the old hens ragged and Jim made a trip to a nearby game farm to find out what

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to do about it. There he learned something that saved the day. The mother hens were confined in coops with slats through which the chicks could easily pass back and forth. These coops were daily placed in the fields so that the baby pheasants could scurry about in the cover for food. If danger came, however, they could quickly scamper back to the protection of the coop and their chicken mother. Under this plan about seventy-five out of the various little broods were raised to the point of liberation, able to shift for themselves. These, added to the natural propagation of the old birds Jim had released on the place the preceding fall, guaranteed an excellent supply on which to work the dogs during the days that lay ahead, and from which a reasonable number could be shot without disturbing the constantly increasing surplus. The two friends were well content with their work and awaited with joyous hearts the turning of the leaves to their purples, reds and golds, to be followed by the shedding of the trees, "when the frost is on the pumpkin," and hunting hearts are pumping with the joy of living.

CHAPTER VII

IMPENDING DISASTER

DAVE WALTERS was the name of the postman who carried the mail to Jim's office. One morning when he made his first delivery, he asked to see Jim personally and was admitted to the inner office.

"I have two young pointers I'd like to have you see some day, Mr. Marsh, if you wouldn't mind," he said.

"Didn't know you were interested in bird dogs, Dave," Marsh replied quickly, with a smile that showed the postman had struck a subject in connection with which an interruption even during business hours was permissible.

Walters smiled back at him, knowing they were on common ground, and answered: "I always have been interested in them."

"How about bringing them down to my place Saturday afternoon?" Jim suggested.

"Can't get off on Saturday, but I'd like to

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come out either Sunday morning or Sunday afternoon, if that would suit you," Walters replied. And so it was arranged that Jim Marsh should see the postman's pointers in a workout on Sunday morning.

A surprise was in store for Jim and it was with unfeigned pleasure that he was able to pronounce them a pair of real prospects. He inquired as to their breeding, and when that was learned, he knew there was fine blood back of them and responsible for the showing they had made in the field. After having seen the pointers perform, Jim and Joe showed the postman a real field trial heat between Killarney Mist and Betsy Ross, and their guest was thrilled with delight. Dave was persuaded to eat with them at noon and they returned to the cabin for that purpose and to talk it over.

"Those pointers of yours, Dave, are worth running in some of the Derby Stakes this fall," Marsh told him in the course of their conversation. "Why don't you enter them for the Valley Trials in October?"

"The fact is I just can't afford it," Walters replied. "I can't afford either the time or

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the money. I always take all of my vacation during the hunting season and save up for that. It isn't just the entry fees, but I would have to get a couple of days off to attend the trials, which would cut in on my vacation when hunting time comes, and there is also the railroad fare, hotel expenses, horse hire and all that sort of thing."

"Well, I'll say one thing," said Jim, "you've got a couple of dogs there that it's going to be a real treat to shoot over when you get them fully finished on their game." The conversation then drifted away from field trials and onto the subject of hunting.

"I had a great dove shoot a week ago today," Walters told them.

"Where?" asked Joe.

"About sixty miles north of here."

"But how did you get away with it?" Jim asked. "They've got doves listed as 'song birds,' the same as quail."

Walters blew a cloud of smoke and smiled as he answered: "But doves are migratory birds and covered by the federal laws. The state law is in direct conflict with the federal law and a lot of us don't believe they

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have really any right to make a local state law that conflicts with a national law relating to migratory birds. They haven't any such right, either, and they couldn't get away with it if enough of us would offer some resistance to it."

"I don't know but you're right about that," Jim laughed. "It's sorta like the story of a fellow who was put in jail and called up his attorney. 'But they can't put you in jail for that,' the attorney answered, when told what the trouble was. 'Well, whether they can or whether they can't, that's where they've got me right now,' came back the answer over the phone. That's just the case with the dove law in our state—they really can't do it, but they have done it anyhow and so long as we let them get away with it, no one suffers but those of us who have paid our license money and don't get in return what we are entitled to in shooting."

"Yes," said Dave reflectively, "and in the case of the doves, the fact of not shooting them here simply makes the shooting of them just that much better in every state south of us. In Kentucky, Tennessee, Alabama and

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Mississippi, clear from here to the Gulf, they are shooting the doves that we protect to improve the shooting for them."

"But our legislators and politicians never think that far," Jim answered, "and perhaps wouldn't care if they did," he added.

"I heard a fellow making a speech the other day," said Joe, "and he was telling about a day he had spent in Congress. The meeting was opened by a prayer from the chaplain. He said the chaplain looked out into the faces of the legislators—then prayed for the *people*."

"One prayer that perhaps will never be answered," Dave spoke up, and they all smiled at the truth of what he had said.

"But how could you shoot those doves on Sunday and get away with it, Dave?" Jim asked. "Sunday shooting isn't allowed anyhow, and, I think, rightfully so. However, in your case, I realize that Sunday is your only day off—but still that makes two counts on which you broke the law."

"Well," came the answer, "the Secretary of Agriculture, who is also chief of fish and game matters in our state, happens to be in-

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terested in the state fair this month and he has called every one of the game wardens out of their territories and has them working on the state fair. He hasn't any right to do that, of course, but it's only another case of where 'might makes right.' Our vast army of citizens who take out hunters' licenses are treated like stepchildren. Nothing is given us in return for what we pay. Our funds are dissipated for other purposes and our rights are ignored. Furthermore, they will continue to be ignored as long as we don't get together and do something about it collectively. We sportsmen aren't paying the game wardens to help run the state fair. That is purely an agricultural proposition. What do we get out of it in the way of better hunting? What business is there for game wardens in helping to put on an agricultural show?"

"I gather that's what gave you your dove shooting last week, though, Dave," Jim answered, with a sly smile.

"I admit that—but I'd rather not have it that way," the postman replied. "All of us would rather have it on a legitimate basis,

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sacrificing the gain of a few for the gain of all."

"I am glad to have you say that, Dave," said Big Jim Marsh. "Those are my sentiments exactly. The game wardens should devote their time exclusively to the protection and the propagation of game. They are paid out of funds furnished by the sportsmen and these funds are furnished for no other purpose. The game wardens during this month of August should be too busy to attend state fairs. They should be having thousands of broods of young game to see to, in preparation for liberation in our depleted covers sometime next month. The sportsmen, who furnish the payroll for the game wardens, should *demand* such services in return for the salaries they, the sportsmen, pay."

"Of course, we don't really pay enough," Dave answered. "The license fee should be at least \$5 or \$10, instead of only \$1, and then, perhaps, if we had to pay more, we might feel encouraged to demand more in return for what we have paid."

Jim Marsh was surprised to hear this state-

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ment coming from a typical "one-gallus man"—the very type which the politicians contend cannot and will not pay more for a license. Here was a man who could not afford either the time or the money to indulge himself in the pleasures of competing with his good dogs in field trials, but who was frankly indicating a willingness to pay more for a hunting license, in return for more for his money. And that's only logical after all, when you come to think of it. Here was a man who spent his entire vacation and savings in his annual hunt—who realized that this was a foolish investment unless he could find game in the fields to hunt. A few dollars extra in the license fee would represent merely a good investment if the return it might yield would be in any way proportionate to the increase. The cost of any trip, the cost of shells, the cost of guns and equipment, the cost of dogs—are all poor investments if you don't get some kind of an adequate return in game and pleasure for the time and money so invested. A few dollars more for a little larger license fee, a license fee big enough to yield a workable unit in total,

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would be but a very small amount of the total investment any shooter has to make anyhow—and he would rather pay this little extra and get something for it, rather than pay the paltry sum of only \$1 and get practically nothing at all.

At this point in the conversation, Big Jim thought of a question to propound to his guest: "Our wardens, Dave, are theoretically taking care of both fish and game matters at the present time. Wouldn't the fish suffer if the wardens were devoting their time to raising game during the fishing season?"

"The answer to that," replied Dave Walters, "is the fact that the present wardens have no business to be protecting fish on money paid by the hunters. I'll admit that many of our hunters are also fishermen—but just as many of them are not. And the latter are paying for something they do not get, and do not want; while the former would gladly pay a fee for each, and would *always* gladly have done it."

"But you do have a fishing license up here now, don't you?" Joe Shramm asked. "It

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seems to me I've heard something to that effect."

"Yes, we do," Dave answered, "and there should be two separate sets of wardens, just as there are two separate licenses. The hunting licenses should pay the wardens who protect and propagate game. And the fishing licenses should pay for the wardens to protect and propagate fish. To have the wardens, as is now the case, protect fish at a time they should be propagating game, is not fair to the fellows who pay the fees for a hunting license. Each branch of the work is plenty big enough if handled right—a big job if we're to get big results."

"In other words," Jim said, and smiled, "the whole proposition is now in a muddle and all out of line."

"Yes, it's all out of line," the postman stated positively, "and the trouble of it is that we are subjected to laws which are made by fellows who don't know what it's all about."

"Dave, you interest me," said Jim. "You're thinking into the thing. Come down again some day—any time you want—

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and it'll be fun to help you get those two good pointers shaped up for the shooting season. I've got to be getting home now, as I promised to play a late game of golf this afternoon."

"I'll have to go, too, but I'd like to come down again and thanks for the invitation," said Dave. "But, before we start, I was just wondering about asking you something. I happened to hear two men talking at a beagle hound meeting the other day, and I overheard some sort of mention of poisoning some dogs of yours. I gathered from what they said that there was jealousy somewhere and I have been meaning to ask you about it."

"Someone did poison a whole litter of puppies for me and I would give a most awful lot to know who did it," said Jim. "I've tried to find out, but have failed. If you can ever give me a tip that would lead me anywhere, Dave, I'd be indebted to you always."

"I don't know who the fellows were," Dave told him, "and don't know if I could find out; and I doubt if either of them was the real one who did it, anyhow. But it does

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seem to me funny that there should be fellows interested in one branch of field sports who are jealous of those interested in another branch."

"In my case," said Jim, "I guess it's just paying one of the many penalties of leadership," and he tried to force a somewhat forced smile, which he found hard to maintain. "You'd think any jealousies would be on the other side of the fence," he added. "The law gives the rabbit hunters an open season of 45 days and a bag limit that is much too big. On the other hand, they give us but ten days on pheasants, cocks only, and a small bag. The wing shots have seen the quail stricken from the list entirely, while the rabbit hunters still have their sport; and although the wing shooters are legally allowed a short season on the Hungarian partridge, they are lucky to find enough Hungarians to bag one or two in three years. It seems to me the rabbit hunters have about all that's coming to them, while the wing shots have a real right to complain."

"That's so," said Dave, "but I gather the jealousy indicated by what I overheard, is

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largely against you personally, because of your posted preserve and the way you're operating under the breeder's license they say you've taken out."

"I suppose that's it," Jim agreed. "But do you know that *any citizen* of the state may do as we are doing here? Perhaps we should stop to think of that. We are not doing anything except what anybody else can do. Furthermore, we are putting more into it than we take out—many times over. I feel that we are really contributing something to the cause of sport. We've all got to learn to put something into sport in return for what we take out of it. But I must hurry home now. Let me know at the office the next time you want to come down, Dave, and don't forget we'd be glad to have you any time you care to come and can."

The following month, in the midst of preparations for the Valley Trials, word came to Jim that the fish and game department chief was planning to throw a wrench in the gear box and prevent the trials being run. Jim Marsh just happened to hear of it and immediately gathered to-

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gether a little delegation to wait upon the Attorney General for a ruling. At the Attorney General's office they were most fortunate, finding a man who was in sympathy with sports afield and who issued an opinion upon the interpretation of the laws which would make the running of field trials permissible. The delegation returned home very much refreshed in spirit and there was no further evidence of field trial interference.

The third week of October, the Valley Trials were run and Betsy Ross was entered as well as Killarney Mist. As it was purely an amateur event, Joe Shramm was barred from handling, having been a professional and so Jim Marsh handled both of their entries. Killarney Mist was first and Betsy Ross was second in a contest that was close from start to finish. They were run together for one hour and a half in the second series, Jim being thus put in the rather peculiar position of having to handle both dogs that were running for first and second. Yet so perfectly were they broken that he managed the feat in good shape and it was only by an

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extraordinary find in the closing moments that the little Irish setter bitch nosed out her brace-mate which had won both the National and the Manitoba Championships.

Joe Shramm was the first to grab Jim's hand when the heat was over. "I couldn't have handled her any better myself," he exclaimed, throwing his arm around his friend's shoulder. "Betsy dropped back to second place only in favor of the greatest Irish setter that the world has ever seen!"

"Yes," Jim laughed, "but Betsy Ross is capable of turning the tables at any time, and no one knows it any better than I do."

One of the judges who was standing near, overheard them and smiled. "But she didn't quite do it today," he said. "It was nip and tuck right up to that last find. In fact, I'll confess we favored the English setter up to that moment—though her lead wasn't enough to justify awarding the decision until we could get something decisive. The most remarkable part of it was to see such a heat where both contestants were under the same handler. I'd like the privilege of shooting over that brace some day."

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"Come with us next Saturday and we'd be glad to have you do it," Jim promptly suggested. The judge was equally prompt in accepting the invitation.

Thus it came about that these three met at "Hole-In-The-Woods" the following Saturday for a hunt over Betsy Ross and Killarney Mist. They used a couple of the young dogs for two hours in the morning, and then put down the great pair for the afternoon. The territory seemed to be fairly teeming with pheasants and the work was good. By special request of Jim, no shots were taken at birds which flushed wild. Kills were made only over positive points, of which there were five in the course of the three hours that they hunted. Betsy Ross had never handled a ring-neck pheasant until she came North, but her experience on the game bird of the prairies stood her in good stead and she had taken to pheasants almost naturally. To Killarney Mist, the ring-neck represented an old story, but on this day she was able to bring to positive point only two birds against a count of three for her brace-mate. When they put the dogs on lead and started back

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for the cabin, the bag represented three cocks and two hens.

As they were strolling down the lane, Jim noticed a little Ford coupe parked along the road and remarked as to whose it might be. A minute later a big man was seen coming through the corn carrying a pump gun. He approached straight toward them and asked what luck they'd had.

"Pretty fair—five birds," Jim answered, but he found himself wondering why the newcomer didn't explain his presence on posted land and hadn't asked permission to hunt. Instead of that, however, the latter asked another question:

"Don't you know the season doesn't open until next week?" he said.

"We are shooting under a breeding license," Jim answered.

"But you can't shoot pheasants except during the open season," the other replied. He then volunteered information as to his identity: "I'm the game warden, and I've come over here to look into what you are doing."

"Glad to have you look into it," Jim told him, "and if you will come back to the cabin

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with us, we will tell you anything about it you want to know."

But the game warden countered with a question: "Did you kill any hens?" he asked.

"Two," Jim replied.

"That makes two counts against you," said the warden—"shooting out of season and killing hens in the bargain."

A considerable discussion followed, the warden taking out his game code booklet. He seemed surprised to find that Jim didn't even have to refer to the book in connection with the breeder's law—knowing it by heart. The warden pointed out that the law provided: "No pheasants shall be killed by shooting, except during the open season for such birds, or except as provided by this section." He read this clause with positive conviction.

"You have overlooked the import of what comes after that last comma," said Jim. "The sleeper which you seem to have missed is this—the '*or except as provided by this section.*' And it is provided by said section that: 'Any licensee or person having written permission may kill or sell either dead

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or alive the birds herein enumerated in accordance with the provisions set forth, *at any time*, and the birds so killed may be bought and sold as hereinafter stated.' ”

After some debate pro and con, the warden decided that perhaps he had better look into the matter still further. “I’ll have to get a ruling on this thing,” he said.

“That would be a good idea,” Jim answered, “and then you can see me any time after you get your ruling.”

“Well,” said the warden in parting, “you know the date and the charge—I am not arresting you now—but when I hear from the department with a ruling on the matter, I shall then put you under arrest, if the ruling is as I think it will be.”

“Perfectly satisfactory,” said Jim—“good day.” And then, after taking a few steps, he turned and said. “But the next time you come to see me, don’t bring any firearms for your protection. You won’t need them. And since you won’t need them—*don’t bring them*. This land is posted by me and I do not permit anyone besides myself and my friends to carry shotguns on this territory

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without permission. Just remember that."

Little did Jim realize at that moment how well the warden would remember that parting injunction. It never occurred to him that the thing would spread throughout the whole department in a bitterness that was destined to bring on a fight to the finish. But even if Big Jim could have foreseen all this—he would never have dodged it. If a feud it was to be—he was ready for it. He saw through things—and he saw them through. The fight might be short or long—decisive or drawn out—it wouldn't have mattered. Be that as it may, Jim Marsh never even dreamed that his parting words to the warden were to precipitate a contest that would be carried through two courts.

Joe Shramm did seem to sense it, for, after walking back to the cabin in silence, he looked at his old friend and said: "We'll have to tighten up our belts now and get ready for what's coming. We've not heard the last of this—and we are not going to hear the last of it for a long time."

Their guest nodded assent, showing that he, too, subscribed to this belief.

CHAPTER VIII

TIGHTENING BELTS

IT WAS some little time before either Jim or Joe heard anything further in regard to the game warden's visit at their preserve. Such things have a peculiar underground way of spreading, however, and one day in a sporting goods store Jim was asked about his "arrest." He had to explain that no arrest had occurred—that he had not heard anything further about the matter—and didn't think he ever would. He and Joe went on about their business in the same old way and pursued their hunting without interruption.

One evening at the cabin, after a particularly pleasant afternoon in the fields, the discussion turned to the subject of the ring-neck pheasant and his qualifications as a game bird. Joe had never had any experience with ring-necks until he had joined Jim at "Hole-In-The-Woods," and while he had already seen some good work on them he still

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felt in some doubt as to their ultimate place in the scheme of things. He realized there was much to be said in their favor—but also that there were other things to be said against them. So he opened the discussion by asking Jim frankly what he thought about it, realizing that his friend's experience with pheasants had been longer than his own.

“Well,” Jim answered slowly, weighing his words as was his custom when trying to be especially fair, “there are both good things and bad things to say of the ring-neck; and I have said some of both myself. But the fact remains that, whether we praise him or knock him, *he has come to stay*. So the thing to do is to take him at his best and appreciate his merits, for he has much to recommend him and he has proved indeed a friend in need. Suppose we weigh some of his merits against his demerits and then try to see whether or not the balance is in his favor. Against him it may be said that he cannot be counted upon to lie well for a dog. This, I think, is the chief argument that can be used in depreciating him. But when you get right down to cases, and look the facts in

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the face, I believe you will find it pretty hard to place much else on the wrong side of the ledger in your account with him. Of course, there are some who object to him because they claim he is too easy to hit, because of his size, and hence not sporty enough. Others may disapprove of him because, even though hit, he is hard to bring down. And certainly it is true that an old cock ring-neck can carry away a lot of shot. Now, you go ahead, Joe, and see if you can figure up anything else against him—you've been hunting him long enough now to have some ideas of your own."

Joe thought for quite some time, and finally had to admit that Jim had just about summed up all of the possible arguments that might be mustered against this foreign game bird, which during recent years has been introduced in so many depleted American covers. Joe admitted that he could think of nothing more to add to the arraignment.

"I've just thought of one more thing that might possibly be placed against him in the count," Jim began again, "and that is that his bag limit, speaking in numbers, is never so large as in the case of such smaller birds as

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bob-white—unless, of course, one is shooting, as we are, on his preserve and breeds a large surplus. But, by and large, the ring-neck doesn't lend himself to so much numerical killing as may be possible in the case of some others of our upland game birds. But even at that, this argument would appeal only to the game hog and he doesn't deserve consideration anyhow. There are two types of game hogs—those who are wilful and those who are merely thoughtless. The former deserve nothing but condemnation; the latter may be susceptible to education. But these two types in combination were responsible for what happened to the buffalo—and the wild pigeon."

Killarney Mist came over to her master's side and nudged him with her nose as an invitation to have her ears rubbed. Jim meditatively stroked the beautiful head and seemed to forget the fact that they were discussing a subject which he had not completed. Joe respected his friend's silence for some little time, hoping Jim would continue of his own accord, but finally he could not restrain himself from asking Jim to go on



KILLARNEY MIST

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to the gluttonous bagging of numerous birds."

"I agree with you there," said Joe, "though I have never hunted them at all except with you. We never had any ring-necks down in Mississippi; at least I never heard of them."

"It is true, of course," Jim went on, "that a pheasant cock cannot be counted on to lie well to the point of a bird dog. But the thing cannot be dismissed merely with that statement. Sometimes he does lie well—and when he does, you feel the sort of exhilaration that repays you well for the times that he doesn't. Furthermore, several things enter into the question of whether a ring-neck will run away or lie close. One of these things is—*the dog*. If your canine companion is not wise in the ways of his game, he is not going to be very successful for you. If you have a dog that has the right ability, you will experience the height of satisfaction. For the dog's inability—don't blame the bird. I am rather glad of the fact that a ring-neck is hard, rather than easy, for a dog to handle. It makes him a more worthy incentive for a day afield. It means that the achievement of taking him is a greater ac-

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complishment. When your dog does 'circumvent' him, as Natty Bumpo would have said, your feeling is that the harder the game the more worthy the win."

Jim interrupted himself to light a cigarette and sat studying the simmering log in the fireplace, marshalling his thoughts. But he soon resumed: "Another thing that enters into whether or not a pheasant cock will lie to a point—is the type of cover in which you are hunting. In standing corn he is pretty sure to run. In a field of sweet clover he is perhaps more apt to lie close for a point than he is to run away; and certainly he will not run either so fast or so far. If you are pursuing him in a field of ragweed that is not too high you have the ideal cover. The quality of your dog will show up here, for it largely depends upon him whether the bird will run or can be brought to a point. The performance under those conditions is fairly similar to that on an old cock prairie chicken. At the worst, the dog should be able to road a pheasant very prettily by the body scent and you can usually keep close enough for a shot. A good piece of roading in such in-

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stances is a delicate performance and can be fully as fascinating as a positive point."

As Jim gave evidence of letting the subject drop here, Joe suggested a new line of thought by asking a question: "I've been reading a lot of discussions in the outdoor publications," he said, "about whether or not a fast dog or a slow dog is the better one for ring-necks. What's your opinion? I think I know—but tell me."

"I'd say that all depends," Jim answered. "Above all, I prefer a brainy dog—and I like them fast. In such cover as ragweed, I like to see them sift out in field trial fashion, picking the body scent positively and pinning the bird to a point with decision. If the dog is positive, the pheasant himself is less apt to be—and if the pheasant loses his decision, his inclination is to squat to a point and await results. If the dog himself is lacking in decision, however, the pheasant seems to realize this and then he takes over control of the situation and isn't long in making up his mind to run out of the country. He simply leaves the territory—and an indecisive dog doesn't know what to do about it. It is cer-

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tainly always a fast dog that will furnish the real thrills, no matter what kind of game you are hunting."

Jim sat studying the fire a few minutes as though he had closed the subject. But such was not the case for he soon picked up again the thread of thought: "There is, however, something to be said on the other side of the argument," he resumed, "and that something, again, is the type of cover. You let a real fast dog outrun his nose through a field of standing corn and most of your pheasants will be flushed out of gun shot. That's why, as I said a few minutes ago, in considering what is the proper way for a dog to work a pheasant for best results—*it all depends*. You can't expect a dog to know how to handle pheasants unless he has been given plenty of opportunity to handle them. It's experience that leads to accomplishment. A dog that has been worked exclusively on quail will mighty seldom be successful on prairie chickens until he has first had a chance to become acquainted with the ways of the new game. The same thing is just as true in the case of ring-neck pheasants. But, in the last analy-

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sis, the final answer all gets back to the brains of the dog—that's why I say *give me brains first*, and I'll take my chance on the rest of it. The truly great dog will adapt himself to different conditions and to different types of game. I know that Killarney Mist immediately detects the difference between the scent of pheasants and the scent of quail. When she thus distinguishes the game she is handling, she governs herself accordingly. That kind of dog won't be spoiled as a quail dog by being worked on pheasants—any more than she would be spoiled as a quail dog by being worked on prairie chickens."

"Sounds logical," Joe agreed, and nothing more was said on the subject that evening.

A few days later the mail brought Jim Marsh a very interesting inclosure. Nothing further had been heard either from the game warden himself, or from anyone else in reference to the former's visit to "Hole-In-The-Woods." The inclosure referred to came from the secretary of the State League of Sportsmen, accompanied by a short note stating he believed Jim would be interested

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in what he was sending. It proved to be a legal opinion as rendered by the Attorney General's office to the state Department of Fish and Game, giving the construction which the Attorney General's office placed upon Section 1436 of the General Game Code. Jim saw at once that this was an opinion which had been written upon an application that had emanated from the game warden who had visited him and which had particular reference thereto. He therefore read it with heated interest, feeling that herein lay the real answer to the situation with reference to the operations at the preserve. We are giving the opinion in full detail because of its important bearing upon the situation.

* * * * *

Section 1436 of the General Code reads as follows:

“PHEASANT AND WILD DUCK PROPAGATION AND SALE

“a. It shall be unlawful for any citizen of the State to engage in the business of raising and selling domesticated English ring-neck or Mongolian or Chinese pheasant, mallard or

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black ducks, on the lands of which he is the owner or lessee. Any citizen desiring to engage in the propagation of the birds herein mentioned, shall make application in writing to the Secretary of Agriculture for a permit, and when it shall appear that such application is made in good faith, and upon payment of a fee of five dollars, shall be granted a breeder's license, permitting such applicant to breed and raise for commercial purposes the birds above enumerated, under the regulations herein set forth. Such license shall expire on the last day of December of each year at midnight.

"b. Killing and sale. Any licensee or person having written permission may kill or sell either dead or alive the birds herein enumerated in accordance with the provisions set forth, at any time, and the birds so killed may be bought and sold as hereinafter stated. Before selling any such birds as provided, there shall be securely attached to the leg of each bird, a metal tag bearing the name, initials or registered trade-mark of the licensee producing such bird. Each licensee must have on file with the Secretary of Agriculture a copy of the trade-mark, name or initial appearing on the metal band, which is required on each bird produced and sold by him, or any person acting under his authority, and it shall be unlawful for any person, firm or corporation to buy, sell, or offer for sale, any bird

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named in this section, not bearing the metal tax (tag) as herein required. No pheasant, mallard or black duck shall be killed by shooting except during the open season for such birds, or except as provided by this section. No mallard or black duck killed by shooting shall be bought or sold, unless each bird before attaining the age of four weeks shall have had removed from the web of one foot a portion thereof in the form of a V large enough to make a permanent, well-defined mark, which shall be sufficient to identify it as a bird raised in domestication under a written permit.

"c. Report and tags. Every licensee by whom pheasants are sold or shipped under authority of this statute shall, within five days after selling or shipping same, make and file with the Secretary of Agriculture a written report thereof which report shall contain a statement of the number and kinds of birds sold or shipped and the name and address of the person, firm or corporation to whom they were sold or shipped and date thereof. Blanks for making the report herein required shall be furnished by the Secretary of Agriculture to each licensee. The Secretary of Agriculture shall also, at nominal cost, supply licensee with the necessary metal tags. Such tags shall bear a distinctive mark and it shall be unlawful for any person, firm or corporation to use any other tag than

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that provided by the Secretary of Agriculture; it shall be unlawful for any person, firm or corporation, to attach to any birds or fowls mentioned in this bill, or otherwise use a tag belonging to any other licensee.

“d. Marking for transportation. It shall be unlawful for any person, firm or corporation, or transportation company to receive for transportation or transport a package, box or other receptacle containing a pheasant, mallard or black duck, unless such package bears a label on the address side, containing the name and address of the owner or consignor and a list showing the number and kinds of birds contained therein.”

This section is a part of the Game Code and is entitled: “Propagation and Sale of Wild Duck and Pheasant.” It is divided into (a) “license”; (b) “killing and sale”; (c) “report and tags”; (d) “marking for transportation.”

These points are called to your attention because the rule is in the interpretation of all statutory provisions that “a statute shall be construed with reference to its spirit and reason”; and be so construed that its intent and purpose be effectuated. (*Black on Interpretation of Laws*, 48.)

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Answer to your inquiry is concerned only with those provisions of this section relating to ring-neck or Mongolian or Chinese pheasants. These terms are descriptive of a pheasant indigenous to Asia, semi-domesticated and imported originally from China and Tibet to England where they are bred in game preserves and where they had become naturalized prior to 1039 A.D. (*Century Dictionary* under "*Pheasant*.")

The Division of Fish and Game of this State spends much money each year to breed these birds. It maintains a farm of two hundred acres where these pheasants are hatched and it also buys many eggs for hatching from other sources which it distributes to persons who will undertake to raise and liberate the birds in the territory near their places of residence.

Section 1402 of the General Code provides an open season for ruffed grouse, Hungarian partridge, and pheasants from November 15th to November 25th, both inclusive, at which time cock pheasants only may be taken, limiting the number that may be taken in a day to three such birds. This section con-

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tains the following: "and except as permitted to game propagators," indicating that its provisions apply only to those who take pheasants not raised by a licensed propagator.

Section 1403 of the General Code provides for an open season for and the taking of wild geese, brant, coot and wild duck and contains no exception similar to that found in Section 1402 of the General Code, notwithstanding that Section 1436 of the General Code also provides for the licensing of propagators of mallard and black duck who may "engage in the business of raising and selling" these birds just as they may in the case of pheasants.

It thus appears that the Game Code intends to provide an open season when the purchaser of hunters' and trappers' licenses, who provide the money used by the State in raising pheasants, may hunt for and take the pheasants these funds have provided and liberated in the various counties of the State, while at the same time the Game Code also allows certain licensed persons to engage in the business of raising and selling the pheasants that they may raise. Both provisions in-

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tend to provide opportunity for sport in the open for all the citizens of the State who care for the same and further to maintain, increase and preserve these birds.

Those pheasants liberated by the State become game or wild birds which, in the open season, any licensed hunter having written permission from the owner upon and over whose lands he hunts, may take in the number and kind allowed by the statute.

Licensed propagators of pheasants are engaged in a business or commercial enterprise limited by certain statutory provisions regarding the killing, selling and taking for purposes of identification, such pheasants as come into possession of persons who patronize the licensed propagators.

Section 1436 of the General Code under part (a) provides that any citizen on proper showing may become a licensed propagator of pheasants. Under (b) any licensee "may kill or sell, either dead or alive at any time," pheasants in accordance with the provisions set forth in said section that are his property as such licensee. Under (b) it is further provided that:

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“no pheasants * * * shall be killed by shooting, except during the open season for such birds, or except as provided by this section.”

It is believed that the provision for killing by shooting during the open season for pheasants must refer to the limitation placed upon those licensed hunters who seek pheasants as provided in Section 1402 of the General Code, because Section 1436 specially provides that persons who are licensed may engage in the business of raising and selling domesticated pheasants. Being a special provision, Section 1436 of the General Code may be considered as an exception to the general statutory provisions of the Game Code, on the subject matter contained therein.

It is provided in Section 1436 of the General Code that a licensee or a person having his written permission may kill or sell, either dead or alive, the birds therein enumerated in accordance with the provisions set forth at any time and the birds so killed may be bought and sold as hereinafter stated. This seeming conflict may be harmonized by taking the above view of the statute and may be explained that it is evident that the section in-

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tends a commercial enterprise in raising pheasants, and must intend to permit those persons engaged in said business to succeed in the same and the killing of those birds in a manner most feasible, economical and appropriate, and at any time, in order to further their efforts in such an enterprise.

It is stated in Sutherland on *Statutory Construction* that:

“In the consideration of the provisions of any statute, they ought to receive such a reasonable construction, if the words and subject matter will admit of it, as that the existing rights of the public, or of individuals, be not infringed.”

To license one to engage in a business of raising and selling pheasants and then to restrict the manner of killing by shooting to eleven days in the year, would, it seems to me, be infringing the right of the licensee sought to be conferred by the license previously secured.

The Game Code is a series of statutes which concern the public good or the general welfare, and as such may be liberally construed,

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although strict construction will apply to its penal provisions.

It is a general rule that the intent of a statute must be found within the language employed; and in the instant case, where a public enterprise is created by license, provisions that would hamper or destroy the success of the same where conflict exists, should be resolved to favor the licensee in the exercise of the property right which his license intends to confer.

A breeder's license is a permit to "breed and raise for commercial purposes the birds above enumerated."

It is to be observed further that a licensee may raise and sell pheasants "on the lands of which he is owner or lessee."

The lessee or a person having written permission from him may kill and may sell at any time such pheasants, whether they be living or dead. Necessarily, such permit to a person other than the lessee must be confined to those birds that are on the premises of the licensee. To pursue pheasants beyond the limits of the lands of the licensee, if such pheasants are the birds that have been raised

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by said licensee, presents a question of some difficulty. However, it seems clear that the owner of a bird would have the right to pursue and take his property, wherever it may be found. Yet, under the Game Code, the manner of taking such property seems restricted and could easily, in certain instances, result in entangling the owner thereof in circumstances requiring clear and convincing evidence to evade punishment.

It will be observed that the statute does not require that pheasants when young shall be marked in any way by a breeder thereof, as it does ducks, and it is apparent that some pheasants raised by a propagator may wander beyond the confines of his premises, while it is fair to say, pheasants on adjoining lands liberated by the state on such lands, may come within the boundaries of the lands upon which he maintains his business.

The exception in Section 1436 of the General Code above set forth, uses this phrase "except as provided in *this section*" and allows a propagator to kill at any time and does not specify the means or instrument that may be used.

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Section 1392 of the General Code, describing the manner of taking game, in part provides:

“A person may take quadrupeds and birds during the open season therefor with the aid of a dog, unless specifically prohibited by this act.”

Section 1436 of the General Code provides a complete scheme for the conducting of a business enterprise, the purpose of which is to breed, kill, sell and transport pheasants, mallard and black ducks.

Under Section 1394 of the General Code on “sale” there appears the phrase “except as permitted duly authorized game breeders.” Duly authorized game breeders are provided for in Section 1436 of the General Code, and no other section.

Section 1393 of the General Code provides for transportation and uses under (c) practically the same words and phrases that are found in Section 1436 in (d) to wit:

“Unless such package bears a label * * * containing the name and address of the owner or consignor and a list showing the

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number and kinds of birds contained therein."

A licensed propagator who sells pheasants must put the required tag on each bird and make the required report of each sale on blanks that are furnished to him for that purpose and if he consigns those pheasants for transportation he must mark the package as required in said section. Where he conducts this licensed business, observing each provision of the section creating the same, it seems the right to engage in such enterprise is fully protected. If he intends to profit as such propagator of pheasants by selling permits to others to hunt the birds he raises, allowing those permitted to hunt the same to take the game away with them, he must properly tag and report such birds as required by Section 1436 of the General Code.

Any other construction of those provisions would mean that a licensed propagator could take, sell and transport only live pheasants, except during the eleven day open season from November 15th to November 25th. Such a construction does violence to the plain

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intent of the section and the statements therein contained.

From what has been said herein it follows as a necessary conclusion that the exception in Section 1436 of the General Code, stating:

“No pheasants * * * shall be killed by shooting, except during the open season for such birds, or except as provided by this section,”

does *not* intend to restrict licensed propagators, or those having their written permit to take, on the lands owned or leased by the licensee, to killing said pheasants by shooting only during the open season from November 15th to November 25th.

* * * * *

CHAPTER IX

LEGAL ACTION

AS SOON as Jim had finished reading the Attorney General's opinion, which gave a favorable interpretation of the law, he folded the interesting document and put it in his pocket, closing his desk for the day. He then started at once for the cabin to convey to Joe the glad tidings that the Attorney General's office had read into the breeder's law the same construction that Jim himself had maintained was the only proper way it could be construed.

"I guess now that's the last we'll ever hear of it, Joe," he said in unconcealed satisfaction, as soon as the latter had finished reading the manuscript; and Joe expressed himself as also of the belief that they would have only clear sailing ahead of them. Yet time was to prove that they reckoned without their host. We have often heard that "where there's a will there's a way"—and it was decidedly the will of the state department to decrease

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hunting rather than to increase its possibility. While Jim and Joe went along serenely in pursuit of their plans the department was quietly busy trying to find the way to prevent what they seemed to feel was an unjust special privilege. But of all this our friends were blissfully ignorant for some time to come, and they enjoyed fine hunting and keen pleasure working the dogs all through the month of December.

With the advent of the new year, Jim mailed in an application, accompanied by the customary fee of \$5, for a renewal of the license. Time passed and the license was not issued, or at least it was not received. His letter of inquiry brought a reply that a new form of application blank was now required. His former application and fee were returned. A copy of the new blank was inclosed. No excuse was offered for the needless delay. Then it was that suspicion first dawned on Jim Marsh that all was not well. A glance at the new application blank gave some indication of what was in the wind. It required answers to innumerable questions, a few of them having some basis in reason, but

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most of them being entirely irrelevant to what was involved. The blank required the signature of a game protective association, and the signature of two game wardens. Jim knew that he would never be able to secure the signature of the game warden with whom he had had his experience, and he seemed to sense a sort of whisper that the department would use that fact as an excuse not to issue a renewal of the license. Yet such a thing was so incredible that he felt convinced he could force the issue, if it came to that. The law was clear that "any citizen desiring to engage in the propagation of the birds herein mentioned, shall make application in writing to the Secretary of Agriculture for a permit, and when it shall appear that such application is made in good faith, and upon the payment of a fee of \$5, SHALL *be granted a breeder's license.*" The law specified that *any* citizen might do this. It also merely provided that the application should be *in writing*. Nothing was said about any special form for the writing of such application—except that it must appear to be made in good faith—and certainly Jim Marsh had acted

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only in the best of faith. Good faith could only mean that the applicant would actually and sincerely propagate game on his own responsibility, and not merely take advantage of game that might be naturally on the territory. Good faith would also mean carrying on one's operations under the privilege exclusively on the territory as covered by the license. Beyond these points, Jim could see no justification for the department's unwarranted action in evolving a new form of application clearly aimed at multiplying the department's opportunities for refusal. Jim knew of a number of others in the state, both clubs and individuals, who were operating under the license the same as he and Joe had been. He also knew that many of these others "played politics" with the department, which was something to which he had never stooped.

Sensing an approaching storm, Jim consulted his legal compass. His attorney listened to a review of the whole situation and then gave his answer:

"If a court can only be made to see this thing in the right light," he said, "there should be nothing to it. But you can't ever

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tell what a court will do—it will be a new question for them to decide and it will be something of a nature utterly unfamiliar. In such a case, anything can happen. If we should chance to have a court that is in sympathy with hunting, you should win easily. If the court is either opposed to it in principle, or merely indifferent, I can see how we might lose. General sentiment will be against you. The court will realize that—making a contrary decision all the easier for them. A weak court would be almost sure to take the safe course—rather than get far out from shore. But, be all that as it may, you unquestionably have a strong case—and, if I were in your shoes, Jim, I'd see it through."

"I expect to see it through," Jim told him—"you ought to know me well enough for that. What's our first move?"

"Why, the first thing to do is to fill out this new form and send it in with your \$5 and have them turn it down. There's always a chance they might grant the license, in which case that's all there is to it. But you've got to give them a chance to turn it down; or you won't have any case. You can't sue on imagi-

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nation. We must get their refusal in writing."

So Jim filled out the new blank and had it signed by his banker and the president of the leading fish and game association. The game warden refused to sign, simply taking an arbitrary stand on the matter. Jim again consulted his attorney and was instructed to send in the application anyhow. He did this—and waited. Nothing happened. He waited until the actual breeding season was well advanced, and still nothing happened. His attorney then deemed that sufficient time had elapsed, and himself wrote to the department demanding an answer. The attorney's letter brought a rejection of the application and a return of the fee. Jim promptly countered by authorizing a suit in mandamus against the department. There was then nothing further to do but to wait for the slow turning of the "wheels of justice." It was with the keenest kind of regret that Jim realized a whole year, at least, would be lost. Both he and his attorney, however, were optimistic as to the ultimate outcome, and Jim accepted the situation with the sportsmanship

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to which he had long been trained. His attorney's brief was prepared in due time, and as Jim read it over, he experienced the confident feeling that it was bullet-proof and left no opening for contradiction as to the merit of the case at hand. Before returning the brief to the attorney to be printed, he and Joe spent one entire evening at the cabin going over it carefully point by point. In order that our readers may have the same privilege, and believing that its legal insight will be both interesting and helpful to those who have followed us thus far, we are giving those who wish to do so the opportunity, by quoting this important presentation of the case:

* * * * *

BRIEF OF PLAINTIFF

STATEMENT OF FACT

This is an action in mandamus. The relator, being a citizen of the State, a resident and land owner of Clinton County. The defendant is Secretary of the Department of Agriculture of the State. The relator has made application for a pheasant breeder's

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license in accordance with the provision of Section 1436, General Code. The defendant refused to issue the license to the relator because he, the defendant, contends that the licensee or those having authority from him are not permitted under the law to kill pheasants by shooting at any time of the year other than that commonly known as the open season, which is defined by Section 1402, General Code, extending from the fifteenth day of November to the twenty-fifth day of November, both inclusive.

The relator contends that under Section 1436, paragraph "B," he and persons having a written permission from him may kill or sell these birds at any time.

Plaintiff's Exhibit "2" which is a letter from the defendant to the relator's counsel states the reasons for the refusal to grant the license. In the defendant's testimony he assigns certain other reasons such as the fact that the relator did not propose to raise enough birds to qualify him as a breeder and propagator of them. We will comment upon this later.

For a number of years the Legislature has

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sought to further the conservation and restoration of game by limiting the time within which wild animals and birds might be shot. This policy might be defended in so far as native animals and birds are concerned but the pheasant is not a native bird. It is a native of China or Mongolia and was imported into this State within the past few years. The Legislature by the enactment of Section 1436, General Code, has recognized that the former policy of conservation in which the burden rested entirely upon the State would not be successful in so far as these birds are concerned and has adopted the policy and system of permitting those who so desire to raise their own pheasants and recognized that those who did so raise pheasants should have the right to take them at any time, recognizing that the self-interest of those who owned and raised the birds would prevent a wanton slaughter or destruction of them and that those who had invested their money in such birds would always be careful to preserve adequate breeding stock.

The State is unable financially to provide a sufficient number of pheasants to furnish

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hunting for all of those who pay \$1 to the State for hunter's license. The defendant testified that there were 400,000 hunters' licenses granted last year.

The law provides that each hunter during the ten-day period may kill three cock birds and that the State has in the past paid as much as \$3 for each bird. The Court can, therefore, see that it would take millions of dollars to provide an adequate number of pheasants if all hunters must rely upon the State to furnish the game.

It is a grave question whether or not the State has any right to regulate the raising, killing and hunting of pheasants upon private property by the owner thereof or those having permission from the owner. Pheasants are not native birds, as has been said, and there is as much property right in the birds turned loose upon a man's land as there is in guinea and turkey hens and similar birds which still possess some of the characteristics of the wild state. Pheasants are semi-domesticated birds. They cannot be successfully confined from a practical standpoint and that is, in order that they may propagate and mul-

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tiply freely they must be turned loose and put on their own resources. The pheasant is able to fly as high as fifty feet and therefore no fence can confine him. They might be confined if their wings were very severely clipped but being a wild bird by nature it would only take a short time until their wings had become sufficiently strong to enable them to fly and constant clipping would be necessary if the owner tried to confine them to a particularly small area.

The relator is the possessor of nearly a thousand acres of land in Clinton County. This place is known as the "Hole-In-The-Woods" and, as has been explained by the relator in his evidence, his cultivated fields are surrounded by a fringe of woodland which makes a natural barrier to prevent his birds from going outward or the immigration of the State's birds inward.

There is some evidence that the State had put out some birds and some eggs to be hatched in Clinton County. However, the Court will see upon a reading of the record that the relator released more pheasants on his land in 1924 and 1925 when he did have

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a license from the State than the State had placed in all the rest of Clinton County and that at the time the relator began releasing pheasants upon his land there were very few, if any, pheasants in Clinton County and none upon his land. That since said time pheasants are more or less numerous on his place.

It is not within the province of the defendant to require the relator as a breeder of pheasants to sell the pheasants that he breeds or raises, promiscuously here and there, but if the relator sees fit and believes that he gets adequate returns to sell all the pheasants that he breeds to one particular person, that is his business and he is the judge of the desirability of that manner of conducting the business and getting what income he may from the raising of pheasants.

In this case the owner of this tract of land simply says to James Marsh, to whom he leases the exclusive privilege to hunt and propagate game birds on his land: "I will sell you all the pheasants on my farm, alive and on foot, you get them if you can," and Marsh for the purpose of training his dogs and for the pleasure and benefit that he may

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derive from having the exclusive privilege of hunting upon this vast tract of land agrees to pay the relator for the privilege and we submit that no one would be more interested than Mr. Marsh in seeing that the breeding stock was always preserved intact. In other words, only taking the surplus.

The success or failure of breeding efforts in 1924 and 1925 is not material to the present case except as shedding some light on the bad faith of the defendant in refusing to grant a renewal of the license.

The evidence shows that there are other breeders of pheasants in the State and that pheasants are being hunted and killed by other breeders or persons having permission from breeders in other parts of the State at any time of the year and further that the defendant has been the guest at one such hunting club in another county and at that club pheasants are hunted and killed at any time of the year and in connection with the license under which that club operates, which was granted to one Saxby, who in his application for license says he proposes to release 300 birds. While it does not appear how many

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members this club has, it is to be assumed that 25 would be a conservative number—so that there are barely four birds for each member of the club. While upon an inspection of the application of the relator we see that he proposes to release much in excess of this and also hatch from eggs.

It has been urged in the defendant's testimony that this law creates a form of special privilege and this seems to be the reason the defendant has refused the license; that he does not approve of the law in the case of Mr. Marsh's license and winks at the operation of it with regard to others.

We submit that the land owner who pays \$5 to the State for the privilege of selling birds raised upon his own land with his own money is not enjoying a special privilege. In fact the hunters who pay a \$1 fee are enjoying a special privilege. The breeder's license and the rights that go with it are open to any citizen of the State to engage in the business of raising pheasants upon lands of which he is the owner or lessee and even if the licensee did enjoy a special privilege, the special privileges would be granted by the

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State in consideration of the benefits to be derived by it from the enjoyment of the license. That matter, however, is one for the consideration of the Legislature and is not a judicial question.

The license provided for by this section is a police regulation and nothing more. It is enacted so that if a pheasant is discovered in the possession of a person at a time other than the open season, the State may easily ascertain the source of it and determine whether or not it has been unlawfully taken.

Good faith means: "Does Marsh honestly desire to engage in the propagation of these birds?"

The law does not vest any discretion in the defendant. The question of good faith is one for the determination of the Court and we submit that there is no evidence of bad faith on the part of the relator and there is ample evidence of an arbitrary refusal on the part of the defendant to grant the license to the relator.

We submit that as these birds are not native wild birds, but are imported stock and are purchased by the relator or in this case by

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his licensee, Marsh; that they are his property and that the State has no control over them; but if that be not so and in any event, that the refusal of the defendant to grant this license deprives Marsh of his property without due process of law.

Section 1436, General Code, in part reads:

“Any citizen desiring to engage in the propagation of the birds herein mentioned shall make application in writing to the Secretary of Agriculture for a permit, and when it shall appear that such application is made in good faith, and upon a payment of a fee of five dollars, shall be granted a breeder’s license permitting such applicant to breed and raise for commercial purposes the birds above enumerated, under the regulations herein set forth.”

The birds mentioned are: Domesticated English ring-necks or Mongolian or Chinese pheasants, mallard or black ducks. It is also declared to be lawful for any citizen to engage in the business of raising and selling these birds.

That part of the section quoted makes a lack of good faith the only ground to refuse a license. It leaves the question of good

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faith entirely in the authority issuing the license and it provides no method by which the applicant may have his day in court.

In *Bank v. Trebein*, 59 O.S., 324, Judge Minshall said:

“Good faith in law, however, is not to be measured always by a man’s own standard of right, but by that which it has adopted and prescribed as a standard for the observance of all men in their dealings with each other.”

Relator’s application measured by either of these standards is evidently in good faith. A licensee’s good faith can only relate to his doing or not doing, according to the statute, what his license permits or will permit, and to his having title or lease to territory where pheasants may be bred and reared.

If the licensee sets only one hen on pheasant eggs and cares for the hatch, his good faith is evident. If he keeps all of the hatch or if he sells all of them, under the regulations of the statute he is in good faith a breeder.

If he has been licensed and acquired pheasants, the question of whether or not he has acted contrary to or in accordance with

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the statute is a question of fact and ought not to be decided by the authority granting the license. The statute contemplates that because it fixes no date for the issuance of a license but makes it expire December 31 of each year.

If one has already become a licensee, as relator was during 1924 and 1925, his good faith becomes a question of his observance of the regulations of the statute and should be settled by a court where the facts may be put in evidence.

In the instant case relator insists that he has not violated any provision of the statute. He insists that all that he has done is permitted him under the terms of the statute. The Director of Agriculture holds otherwise and has arbitrarily refused him a renewal of his said license.

That the Director of Agriculture has arbitrarily so acted is evident, because the Director requested of the Attorney General a construction of Section 1436, General Code, based upon the facts in this case, and said Director of Agriculture was officially advised by Opinion No. 19, Opinions of 1927, that

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Section 1436 permitted licensed breeders of pheasants or persons having the written permission "to kill and sell either dead or alive * * * at any time." The Director of Agriculture has refused to follow the advice of his statutory legal counsel in this matter. Opinion No. 19, Opinions of 1927, points out that Section 1436 says under (b), "no pheasant * * * shall be killed by shooting except during the open season * * * or except as provided by this section," and Section 1436 provides that a licensee may kill at any time.

The Opinion also points out that Section 1402, General Code, providing for the open season for pheasants says that, "except as permitted to game propagators," only three cock pheasants in any one day may be taken and it further points out that Section 1392, General Code, provides for taking quadrupeds and birds during the open season therefor, with the aid of a dog, "unless specifically prohibited by this act." Nowhere in the act is there any specific prohibition found against the use of a dog by licensed game propagators.

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The Opinion also points out concerning sale that in Section 1394, General Code, "duly authorized game breeders" are exempted from its provisions.

Notwithstanding this interpretation of the law, the Director has, in the instant case, placed his own construction on Section 1436 and has refused to follow the same.

THE APPLICATION

In the application blank sent by relator are many questions which are arbitrary, frivolous, misleading, and not at all sanctioned by any provision of the game law.

Nowhere is it required that the application shall be made under oath. Section 1436, General Code, does not even require that the Fish and Game Department shall furnish a blank.

All that the section requires the Department of Agriculture to furnish is a blank for a report of sale and a supply of "metal tags, at a nominal cost."

The application blank declares that "no license will be issued after June the first." It requires the signature of a banker, the sig-

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nature of the county game protector, the signature of the district deputy supervisor or supervising fish and game protector, and the approval of a county fish and game organization.

The evidence shows that licenses have been issued by the Department of Agriculture without some of these details being complied with. (Record, page 109.)

THE STATUTE

Section 1436, General Code, we insist, is not a constitutional enactment:

1. Because it attempts to allow propagation of mallard or black ducks, which are migratory birds, and the control of which is the subject of a federal statute passed under and pursuant to the migratory bird treaty between the United States and Canada.

2. Because concerning pheasants in effect, as in the instant case, it is the taking of property without due process of law.

From the provisions of Section 1436 relating to pheasants it appears that when the use of property is prohibited, it is equivalent to the taking of the same, and if its use is pro-

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hibited without due process of law, the taking is unlawful.

Marsh was licensed over a period of two years, acquiring a very considerable number of pheasants upon ideal grounds for their rearing and preservation. He was then denied a license, rendered unable to dispose of or use his property and that property is now free to revert to the State or to go where it will.

No provision being made in the Game Code for a court to pass upon the facts, this results in the taking of property without due process of law when one is denied a license. Nor is the whole matter of what is good faith left to the discretion of the Director of Agriculture, because that is a question of fact. An applicant or licensee is without opportunity to present to the Director proof of the facts and is without the right of having the Director's decision reviewed in court. This is the taking of property without due process of law—or without the course of law.

English, or Mongolian or Chinese pheasants, are non-indigenous birds, i.e., they are not native. Neither are they migratory and

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hence are not "feræ naturæ." They are not game birds and are not so defined in the Game Code.

In *Solomon v. State*, 11 O.N.P. 525, the syllabus holds:

"1. The phrase 'any wild bird' as used in Section 1409, G.C., as amended, means any wild native bird and also migratory birds which cross the state at regular intervals.

"2. The white heron is a wild bird, but not a game bird under the amended statute; it does not have its habitat here and is never seen here unless it be a vagrant specimen, at rare intervals, and it therefore is not protected by the statute. . . ."

As has been said, these pheasants are not game birds, and they are not native to this State. They are never seen here even as a vagrant specimen. They have been imported as many animals found in menageries or circuses. They are property and are in the same class as chickens or guineas.

The Court's attention is called to Section 1390 where the definition calls them "imported pheasants" and they are not classed as a game bird.

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Black on Con. Law, 2nd Ed., p. 342, names, among the eleven subjects of the State's police powers, "(k) the preservation of game and fish" and states that such preservation "has always been treated as within the proper domain of the police power."

"Laws limiting the season within which birds or wild animals may be killed, etc. . . . have been repeatedly upheld by the courts." Black is evidently speaking of animals, "*feræ naturæ*," and cites as authority *Lawton v. State*, 152 U.S. 133.

The Court is referred to *Geer v. Commissioner*, 161 U.S. 519, where the whole matter is exhaustively discussed as applied to animals "*feræ naturæ*." We quote:

"From the earliest traditions the right to reduce animals '*feræ naturæ*' to possession has been subject to the control of the law giving power . . . things were classified by the Roman law into public and common. The latter embraced animals '*feræ naturæ*,' which, having no owner, were considered as belonging in common to all the citizens of the State. * * * The Institute of Justinian recognized the right of an owner of land to forbid another from killing game on his property * * *"

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"This inhibition was, however, rather a recognition of the right of ownership in land than an exercise by the State of its undoubted authority to control the taking and use of that which belonged to no one in particular, but was common to all. The common law of England also based property in game upon the principle of common ownership."

Blackstone, referring to common ownership of game, says:

"Such also are the generality of those animals which are said to be '*feræ naturæ*' or of a wild and untamable disposition, which any man may seize upon and keep for his own use or pleasure." (2 Bl. Com. 14.)

The above is in fact a statement of the law as to all animals "*feræ naturæ*." (State v. Shaw, 57 O.S., 157; State v. Hanlon, 77 O.S., 19.)

In Edson v. Crangle, 62 O.S., 49, it is held that an act to confiscate nets is unconstitutional because it is without due process of law, and in State v. French, 71 O.S., 186, the Edson case, *supra*, is distinguished, holding that because the statute failed to declare the unlawful use a public nuisance, nets could not be summarily seized.

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We insist pheasants are not animals "feræ naturæ" here and because of that fact are not subject to the police power of the State over game.

We insist that the arbitrary power given the Director of Agriculture to refuse a license to anyone on what he is pleased to call lack of good faith without giving his victim his day in court is taking his property without due process of law or without due course of law and is therefore unconstitutional.

We hold that we ought to have a writ of mandamus in this case because the application tendered the Director of Agriculture is in good faith. We insist that the Director of Agriculture is without authority of law to require relator to submit an application under oath and on the form provided.

We believe that the information required on the application blank furnished, in many cases, is no evidence of good faith or of the lack of it. We are unable to see how the approval of a county fish and game organization or of a banker can evidence good faith or lack of it in an applicant desiring to propagate English ring-neck pheasants.

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We think that the Legislature by its own enactment in declaring these pheasants imported pheasants has foreclosed itself to require any person desiring to raise these birds to have a license.

We therefore ask that a writ of mandamus be allowed if it shall be held to be within the power of the Legislature to require the same.

* * * * *

CHAPTER X

THE TESTIMONY

ALTHOUGH this case against the state's agricultural official came before the Supreme Court, the taking of testimony was not in their presence and Jim regretted this exceedingly. He and his witnesses were so sure of their ground that he felt the court could not have helped being impressed by the manifest certainty thereof. On the other hand, the testimony of the department's witnesses was unquestionably to the contrary, and tinged with prejudice. Jim's attorney, himself, frankly confessed his own regret that the court which was to review this testimony might not have heard it at first hand. There is such a difference between the spoken and the written word! Yet all the court had as its basis for judgment was the transcript of testimony as recorded by the court stenographer who took the depositions. There was a distinct and glaring difference in the personnel of the re-

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spective witnesses—a difference which this transcript of testimony could not even hope to bring out. Thus an advantage that should have been Jim's was neutralized to the benefit of the defendant.

The testimony was taken in a little office adjoining the law library in the state house, and there were present only the different witnesses, as they were called one at a time, the court stenographer and the attorneys for each side. The witnesses on behalf of the plaintiff came first, and there were only three: Jim Marsh, Joe Shramm, and one of their friends who had chanced to hunt with them on two occasions. The state's attorney started his questioning with a great deal of gusto, but he soon seemed to sense the fact that he really didn't know what it was all about and weakened in his attitude very decidedly. Jim was the first called to take the stand and his answers to all questions were firm, prompt and positive. It was a pity that the court itself did not hear this testimony at first hand, and thus have been able to note the gradual melting of the confidence of the attorney for the defendant as the testimony progressed. Jim



AND THAT WAS KILLARNEY MIST'S REWARD.
FOR HER THAT WAS ENOUGH.

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Marsh was already well aware that legal procedure involved the apparent necessity of so many irrelevant questions—bringing out and rehashing and haggling over points that had no real fundamental bearing upon the issue involved. While Jim's testimony was being taken, he threw somewhat of a bomb into the opposing camp by the certainty of the information as manifested by his answers. One of the questions which his own attorney put to him was this: "Do you know approximately how many licensed hunters there are in this state today?"

And Jim's quick answer was: "More than four hundred thousand."

His lawyer then asked him another: "Under the general game laws, how many pheasants is each of these licensed hunters permitted to take during the open season?"

"That depends somewhat on whether one, or two, Sundays fall in the open season," Jim replied promptly, "but the number has been about thirty birds. The coming season it will be a few less due to a cut in the bag limit."

"How much do these hunters pay for the privilege of taking some twenty or thirty birds

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in a season?" was the attorney's next question.

"One dollar and twenty-five cents," Jim replied.

"And if each hunter took his legal quota as allowed by the state, how much would that cost the state per year for a proper propagation of enough birds for this?" asked his attorney.

"Upwards of ten million dollars a year," Jim testified—and this answer was objected to by counsel for the defendant, who realized that herein lay the greatest weakness of the defense, if the court might by any chance see the importance of the point as raised. For certainly there is a pitiful discrepancy between the amount of half a million dollars as available for the protection and propagation of all kinds of game, and the necessary amount of some millions of dollars for the protection and propagation of enough pheasants alone!

The plaintiff's testimony was concluded by the noon recess, and the state's witnesses were called immediately after lunch. Jim Marsh was not permitted to be present during the testimony of his own two witnesses, but he

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was allowed to remain in the afternoon while the witnesses for the state were being examined; and, if he had previously felt contempt for these men, it was as nothing compared to that which now grew upon him as he listened to their prejudiced propounding, tinged with a narrow viewpoint and circumscribed by political intrigue. All through his own cross examination by the defendant's attorney, he had been appalled by the ridiculous insignificance of the questions to which imaginary importance was apparently attached. How large was the chicken house where he raised his pheasants? Was it an ordinary chicken house? How large were the run-ways? What kind of wire? How high were the fences? How old were they? Were they standard fences? These and a hundred other purely irrelevant questions had been haggled over during the whole forenoon. Had he not heard it with his own ears, he would not have believed that any sane person could waste time with such frivolities—and the pity of it was that they didn't mean to be frivolous. They went to considerable pains to try to show that Jim had set too few, if any, eggs; and that

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he had released too few, if any, live birds. They didn't seem to realize that it was not within reason to imagine that he would go to the other expenses involved and then cut short the scheme of things, and cramp his own possibilities, by not stocking the place at least adequately for his own needs. It was beyond all sanity to believe that he would invest as much as he had in both time and money in connection with the preserve—and then not take the one last step necessary to consummate the thing by producing in full measure all the birds that he might wish to take, with due allowance also for a bountiful surplus for breeding purposes. Yet, unthinkable as it might be, Jim's own ears told him that it was along such lines as this that these men sought to mislead the court as to their actual intentions in having refused the license.

Big Jim Marsh felt his fingers fairly itching for what would have been a delightful opportunity could he but have been permitted a few brief moments alone as man to man with the shaggy browed politician who held the office of Secretary of Agriculture. He

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found himself trying to decide in his own mind which he really abhorred the most—the heavy jowled agricultural secretary, whose term of office already held the taint of a charge of graft, or the iron-faced, sleek individual who occupied the office of chief of the Fish and Game Division. But, try as he might, Jim couldn't quite decide which was the worse of a bad pair.

The indiscriminate reference to "pheasants" would have been laughable to anyone well versed in the matter—yet the present circumstances were such that no one could construe it as a laughing matter. The state's attorney used the terms "English" pheasants, "Chinese" pheasants, "ring-neck" pheasants, and "Mongolian" pheasants, without any understanding whatsoever on his part as to whether or not he might be talking about one and the same bird, or birds of a totally different species. All this might have been very successful before a group of real sportsmen if staged purely and simply as a comedy; but as a serious business, it was tragedy rather than a joke. A pitiful tragedy from the standpoint of sports afield with dog and

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gun for future generations in America!

The Secretary of Agriculture testified that the state in 1923 had raised and distributed 9,473 pheasants. Just think of it—only 9,473 pheasants for 400,000 shooters, each entitled to some thirty birds! Instead of the more than twelve million pheasants necessary to fill the bill, they had released something over nine thousand—or, in other words, only enough for about 315 hunters if each got the legal limit! Not one one-thousandth of enough for all to whom they sold licenses! And he further testified that in 1924 the state had distributed 8,367 pheasants (or more than one thousand *less* than they had distributed the previous year). He testified that 10,941 birds had been released in 1925; and only 9,431 in 1926. The burly secretary shook his bushy brows and proudly proclaimed: “The estimated cost of this distribution of pheasants for this four year period has been \$95,530.25!” He seemed utterly oblivious of the fact that 400,000 hunters buying the right to kill thirty birds each, which at the cost of \$3 per bird would be *thirty-six million dollars’ worth of game each year*, were having delivered to them only

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\$95,530.25 worth of game in four years!

The secretary's own testimony bore out the fact that the state's propagation in the whole county in which Jim's preserve was located, had in no year equalled what Jim himself had produced on the preserve alone. In other words, the state in that entire county was not providing for all of its license holders as much as Jim had provided just for Joe and himself!

Jim's attorney took some of the wind out of the secretary's sails when he asked him this question: "Are you familiar with that section of the law which reads: 'Not more than three cock pheasants may be taken in any one day during the open season, except on Sunday, and *except as permitted to game propagators?*'" The secretary replied that he was somewhat familiar with the section of the law but that he could not quote it verbatim.

"Well that's what it says, whether you happen to know it or not," the plaintiff's attorney fired at him.

"I would want to refer to it," said the Secretary of Agriculture.

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"Well, then, do so—here it is in Section 1402 right under your thumb," said Jim's attorney, handing the witness a game code booklet.

"Section 1402?" asked the secretary vaguely.

"Yes—right there, under 'Limit,' " replied the attorney. "That's what it says, doesn't it?"

"Yes, sir," the secretary was forced reluctantly to admit.

Then Jim's attorney asked him another question: "Sometime ago you asked the opinion of the Attorney General's department on the subject of shooting by game propagators, did you not?"

And the secretary's answer was: "That was requested by the Fish and Game Division, not by me."

Jim's attorney ignored the attempt to dodge the issue: "That opinion clearly defines that there is no closed season for game propagators, doesn't it?"

"I saw fit to differ with that opinion," was the secretary's reply.

The plaintiff's attorney then attempted to pin down the Secretary of Agriculture by

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asking him for the actual number of license holders for the current year. The answer was that there were 408,000.

"Each one of these licensed hunters may kill thirty birds during the open season, may they not?" asked the attorney.

"Yes, sir," replied the secretary. But when it was pointed out to him the *millions* of birds thus involved, he realized that he was getting beyond his depth and attempted to hedge in the matter.

"But these licensed hunters could legally take that number if they were there to take, couldn't they?" asked the attorney.

"I think it is a wild guess to say that many could be killed," was the only answer the secretary could muster—and he happened to be right!

"We'll have to agree with you there," said Jim's attorney. "It's a wild guess—for your department doesn't make it possible to procure that which you admit there is a legal right to procure."

The testimony of the chief of the Division of Game can be passed very quickly. He simply didn't know anything. In the igno-

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rance of his conceit he failed to realize that he was really painting a truer picture of himself than he knew. Jim's attorney finally grew exasperated and realized that this man would not if he could, and could not if he would, answer the questions either correctly or at all. So he decided to give him up by asking this one question in conclusion: "Well, anyhow, you will admit that you at least know what your own name is, won't you?"

And the chief of the Division of Fish and Game hazarded the information that such was the case. It was the only direct answer that could be credited to him.

After the testimony had all been taken, and the transcript thereof turned over to the court along with the printed briefs and various exhibits, there followed a period of anxious waiting for Jim Marsh and Joe Shramm. The law is a slow moving institution, and its proceedings are well known to be tedious. The breeding season came and passed—and still there was no decision handed down. Nothing could be done about it—Jim and Joe could only wait, realizing that even if they won, a season had been lost.

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"I think the delay indicates a divided court," their attorney wrote; but that's all the satisfaction they got.

Then one day Jim received a wire from the attorney, giving news which he accepted with the philosophical resignation which outdoor sportsmen in America have had to learn to know. "We've lost our case. Am mailing copy of court's decision," was the information contained in the telegram.

Jim immediately telephoned word to Joe and told him that he'd be down that evening and they'd talk it all over.

"Well, I guess that's the end for us," said Joe, as they drew up their chairs a few hours later. "There isn't anything else to do about it, is there?"

"There are a good many things that can be done about it," said Big Jim Marsh. "I've only started to fight. This case is one that could be carried to the Supreme Court of the United States, for it involves depriving a citizen of his property without due process of law. So that's one thing we can do—carry it to the highest court in America. Another thing we can do, which I have already wired

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instructions to have done, is to file a motion for a rehearing."

"You won't get much out of that, will you?" asked Joe.

"No, perhaps not, but I was simply answering your question about what could be done. They're all wrong, I tell you, Joe. I believe—and I have consulted attorneys who say I am right—that if you buy a piece of land and find one bevy of quail on it, and, by your own industry, providing feed and water for the birds, trapping and killing hawks and vermin that prey upon them, so cause that bevy of quail to thrive and multiply from one bevy to several bevies—that such birds as represent the increase, which comes from your own industry, shall become your own property and not be subject to the laws of the state."

"But you could never get away with that, at least in this state," said his friend.

"Maybe you couldn't, Joe, but I'm telling you what's *right*—not what you could get away with. The things we have seen and heard in trying this case have shown me that you can't always get away even with what's

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right. The facts and the law and the right were all on our side in that case—but politics were against us. And politics won.”

“That statement has somewhat of a discouraging tinge,” suggested Joe, “but a minute ago you said you had just started to fight. What do you mean by that?”

“Oh, I don’t know for sure—yet. But I’ll find out in time. This thing of propagating game, and introducing foreign game and all that sort of thing, is teaching us a good many things. For example, the valley quail of California have never been known in this state and hence are naturally not mentioned in our game laws here. What’s to prevent us from importing and propagating some valley quail at ‘Hole-In-The-Woods’? We wouldn’t even need any sort of a license to do that!”

“But you couldn’t be sure enough of telling them from bob-whites on the wing not to run an awful chance of killing a lot of the latter thinking they were valleys,” answered Joe.

“That’s a difficulty,” Jim admitted, “but whether or not it is an insurmountable one,

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I am not yet prepared to say. I am only telling you that we are legally free to try valley quail, without even a license, and would be fully within our rights if we could get away from the chance of killing some bob-whites by mistake."

"Anything else you've thought of, Jim?" Joe asked, his interest growing.

"Yes, I've thought of the golden pheasant. These are not mentioned in the breeder's law or in any of the game laws. The state has propagated no golden pheasants whatsoever, and they would be rather easily distinguished from ring-necks. Therefore, proof of having bred some of them would in itself be an identifying mark of ownership. I don't know but the golden pheasant offers one of the very best solutions. A fellow was telling me the other day that he believed those birds would even lie better to a dog than a ring-neck—but I have no proof of my own to that effect."

"You have been thinking about this thing, I see," said Joe. "But why have you kept so quiet about it all this time? Anything else you've thought of?"

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“Yes—guineas. A good many people are beginning to think of the guinea as a game bird. They revert to the wild state more quickly than any domesticated fowl. In Africa, in Haiti and even right below us in Cuba, the guinea is a leading game bird. A number of the outdoor magazines, and some of our foremost students of game restoration, have been investigating the guinea with a view to using it for sporting purposes in the field. There are several troubles about them, though, or at least uncertainties. One authority will claim they lie well to a dog. The very next authority will differ with him. There is some doubt about the assurance of keeping them within as definite limits on a preserve as other game birds. The main objection, however, seems to be the noise they make and the fact that many farmers object to having them around. But even for all that, guineas bear consideration—and I expect to give them that. They are at least free from the restriction of game laws, being regarded as a domestic fowl. In one or two generations at most, they will completely revert to the wild state. All authorities are agreed on

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that. So the guinea is another of our several possibilities."

"Are there any more?" asked Joe.

"Yes—more. And I don't know but this last is the best of all."

"What's that?"

"Get out and work to defeat the present administration. Elect a new governor who will appoint new heads of the various departments. This license case of ours has been made a matter of personal prejudice and I am convinced that, under a new administration, we would have no difficulty in getting our pheasant license and go right along just as we have been, except that we will have lost two or three years while the change is in process."

"Now, you're talking!" Joe exclaimed with enthusiasm. "That's the only one of the things you have mentioned that I've been thinking of myself. Let's get into politics, Jim, and help remove some of those fellows now up there at the state house!"

"But not by getting into *politics* to do it," Jim answered. "Just by making a clean fight of it with the outdoors as our platform."

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"I'm with you," said Joe. "You lead the way and I'll follow."

The friends were pretty blue over the blow that had been handed them, but they both felt better about it after their talk. Misery still loves company. Jim stayed all night at the cabin and by the time he started for the city next morning, they were almost peppy over their new plans.

At the office Jim found the copy which his attorney had sent him of the court's decision. He read it through and tossed it aside with contempt. The substance was simply a refusal to grant the mandamus. It failed to more than touch upon the merits of the case. But it was so manifestly clothed in ignorance that Jim was forced to a feeling of impatience over its contents.

The next evening there was an editorial on the decision in a paper published in a larger city to the north of them. Jim received a marked copy. This editorial occupied a column and a half and was a rather severe arraignment of the court, based upon this case. The editor had seen the point that the bench had missed and there was some satisfaction

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in that, even though it may have been slight. The heading of the editorial was, "Making Another Candidate." Jim folded up the paper and placed it with some others he had been saving in connection with the case. Among a great many other things, this editorial made the following statements: "The Supreme Court's newest decision holds that the public game laws are so far-reaching they prohibit even the owner of land from shooting or taking any game during the season which the legislature has declared to be closed, even though the land may have been stocked at his own expense and for his own use. No one has any quarrel with the law which seeks to protect the game of this country. On the other hand, it was not called into operation soon enough. But we submit that it was never intended to extend as far as the courts seem to have carried it. This decision illustrates the fact of how the powers of government are being extended over us so as to cover every relationship of life. A legislative body passes a statute aimed to accomplish a specific purpose. Then somebody begins to agitate something and forthwith the courts,

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always with their ears to the ground, hear the vox populi which they think is the voice of God, and forthwith they begin construing."

Jim smiled as he placed the editorial away for safe keeping and muttered to himself: "Well, I wasn't fined for it—but I *am* in contempt of court just the same. And I'll be in contempt of it as long as I live! Looks to me as if this editor must hold a similar view."

Pretty soon Jim found himself whistling, and, coming from where he did not know, a subtle satisfaction crept over him. He was always that way when a fight was in the offing—for he loved a good fight. This new fight was to do his part to help unseat the present administration. They'd been there too long anyway. The Governor himself was an uncouth and rather strange individual, who, in spite of his multitudinous shortcomings, had proved to be a phenomenal vote getter. Jim Marsh was not going to work for, or with, any political party, nor on any involved platform. He was going to make his fight on just one issue—the issue of field sports for the future. He found himself glad, as he had

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never been glad before, that he was naturally endowed with a talent for speaking in public, because that is what his campaign would involve—addressing every representative organization in the state on the subject of the existing situation. If he could call to his banner the small army of 400,000 licensees, he felt that the purpose could be accomplished; and toward that end he laid his plans and toward that end he worked.

CHAPTER XI

ONE WAY TO WIN

JIM's first move was to write the secretary of each sportsman's organization in the state and offer his services to address them on an important matter in which they would be interested, either at a special open meeting called for that purpose or at any of their regular meetings, as the organizations might prefer. The letters were worded in such a way that the secretaries sensed the fact that here was a man with a message, and Jim soon began to receive invitations to accept dates. In the meantime, he was busy marshalling his facts and preparing to make the most of his opportunities. The work of outlining his different addresses was all done at the cabin, which he felt offered the right atmosphere for constructive thought along these lines and where he was able to work with Joe's cooperation, which proved a great help.

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One day during an interruption in the work, they fell to discussing the pheasant case again.

"D'you know, Jim, the more I think about it the more asinine seems that point the attorney for the defendant kept trying to make about the chance of our killing a state bird or two that might have wandered here, and the fact that we could never be sure whether we did or not. It seems to me that the only point involved would be whether we actually produced more birds than we killed. Just so we never killed more birds than we produced, what difference would it make if in the course of a season we should happen to bag a couple that might have gotten on our territory from some of the state's meager propagation? If we never killed more than we ourselves were responsible for producing, the very fact of our having propagated that many birds would entitle us to that many in return for our effort and expense. Furthermore, there was much more likelihood of some outside shooter getting some of our birds that might stray, than of us getting any state birds that might come into the preserve. The

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chances in that line would all be against us and in favor of the state."

"Oh, sure," Jim replied—"no question about that and any sane thinking person would realize and admit it. The pheasant is such a canny bird that his natural inclination will always be to migrate away from where there is shooting—not come from where there isn't any shooting onto premises where there is. The state's open season is for ten days in November. Now, when we were shooting here in October, and there wasn't any shooting on adjoining land, it would be very much more natural for some of our pheasants to get away from us and slip over into protected fields—than for any pheasants to come from outside territory into the preserve where we were shooting. No doubt about that at all—and it was simply a case of asininity on the part of the opposition to try to make a point of that."

"But I think they made it count with the court, just the same," said Joe, making a feeble effort to smile.

"Yes—which only caused my opinion of courts to drop lower than it already was. If

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anyone in this country ever was in contempt of court, Joe, you're looking at that fellow right now. In one season I spent more for game propagation, thus furthering the cause of game restoration, than the average sportsman in this state will spend in a hundred years. Yet a befuddled judiciary failed to grasp the real point at issue and killed the thing. But then, that's just one of the age-old penalties of leadership. I sometimes get disgusted with democracy."

"Do you think it's worth while—to keep on fighting?" Joe next inquired.

"Why not?" Jim came back at him quickly.

"Well, the other day when I was in town, I met a man representing one of the gun companies and I was talking to him about what we have been doing and the outcome of the case and all. D'you know what he told me?"

"What?"

"He said he thought we were foolish to fight the thing. He said he had found a place up in Canada where hunting and fishing are still good and he goes there every season. His idea was that there isn't any use trying to fight the thing where there is so much con-

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trary sentiment coupled with ignorance. It's so much simpler, according to his argument, just to pick up and go where things are different—and let the rest of the world go by."

"I'm sorry to hear of a gun company's representative feeling that way," said Jim. "That's simply following the line of least resistance—and it's not contributing anything to a cause. When a fellow reaches a certain age, I think he derives a greater satisfaction from life if he plays his part in this world of men and finds some cause in which he is interested above every other, to which he can devote his time and talents in an effort which will become a monument to him and live long after he is gone as a real contribution to the future. That's the way I look at it—and that's the reason I'm playing the game. If selfish motives were the only incentive, I'd agree with your friend from the gun company and say that the thing to do would be simply to move on to other fields. But—that's just not my way of doing things."

"Too bad there are not more like you," said his friend rather wistfully.

"I tell you, Joe," Jim began again, and he

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stood up in the enthusiasm of his great interest. "You and I are pioneers today—pioneers in a cause. We are pioneering just as surely as were our forefathers who opened up the original forests and cleared the way for what has followed. We may be living a century later—but we are pioneering just as primitively as did they. Only our situations are different. From no other standpoint are we any the less pioneers."

Jim paced back and forth across the cabin after delivering himself of these statements. Suddenly he stopped short and said with conviction: "But the real thing that is going to save field sports with upland game birds is not so much what you or I may do, but it is something in which we are interested just the same. The thing that is going to do more than anything is the *class dog* and the field trial competitions. The class dog is going to become the greatest educative force in the history of the sport, because he is drawing attention away from the idea of mere killing and directing it to himself and the quality of his work. The constantly growing appreciation of this thing is the most effective force

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we have ever had with which to fight the game hog and indiscriminate killing. So we may look to our friend the dog, our canine companions to whom man already owes so much, to contribute more than fellows like you or me can ever hope to accomplish. And the trials are growing so, both in size and numbers! Today there are more than two hundred field trial clubs—and they are ever on the increase. It is the healthiest sign I know.”

Jim poured himself a drink of water, lit a cigarette and puffed it in silence for several minutes. Then: “And the very nature of the requirements in providing proper courses for field trial competitions is playing right into our hand,” he said. “They lead to a *collective effort* and that is always stronger than individual effort. The field trial clubs know that there must be birds on their courses in order to run a successful trial. They are beginning to lease the grounds over which the trials are run and thus preserves are being created by most field trial clubs. More and more of them are coming to it every season. These clubs are developing and stimulating organ-

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ized effort at real propagation on these field trial preserves, planting the proper feed for birds, making sure water is available, killing and trapping hawks and vermin. As this tendency continues to grow, the firmer will be its strongly gathering influence. Therefore, I say to you, my friend, that the class dog and the field trial competitions are destined to prove the most powerful influence of all in the right direction."

"But, still, we as individuals must not cease firing," said Joe.

"No—we must not cease firing," Jim said after him.

The opening gun in Jim's campaign of speech-making was fired at a little gathering of sportsmen in a small city of about fifteen thousand, a few miles to the north. Next he was called to address a club on the eastern boundary of the state. His third meeting was in one of the larger cities. And so the calls came—and grew in numbers. Everywhere Jim was well received. In his message to all these clubs he had touched the point of an active and co-operative interest in game restoration on the part of all individuals inter-

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ested in the sport of hunting. He gave the facts and figures, showing how impossible it was for the state to be successful under the present plan. He made it clear that it was time for a new plan—and that fish and game must be taken out of politics. He pointed out that twenty cock pheasants killed by any individual hunter in the course of the season would actually cost the state anywhere from \$50 to \$60. He forcefully pointed out that the state cannot deliver \$50 worth of game (or any other commodity) in return for only \$1. He showed that neither the state nor an individual, nor a business house, could furnish \$50 worth of anything for only \$1. The manifest unsoundness of the system was hammered home and hammered hard. He advocated a new deal all around—and urged an acknowledgment of the landowner as the rightful owner of his game; which he is already in fact, even if not in theory.

But all this time Jim was working on another address—his “ace in the hole.” And it was the force of this new message which was destined to prove his real knockout. He saved the firing of this gun until he was in-

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vited to address the sportsmen's organization of the county in which the state capitol itself was located. Then he urged that a special drive be made for a big attendance; and a thousand listeners filled the hall. For many years the bob-white had been listed as a "song bird" and this law was recognized as a dangerous political subject. It had always been the belief of Jim Marsh that the opposition to bob-white as a game bird gathered much of its strength from the fact that the sportsmen so feared the subject they were almost afraid to speak up and fight for their rights. It was his opinion that only a weakness for the cause could come out of dodging the issue—and he proposed to bring the cause out into the open and fight for it fairly. The audience itself appeared to feel that a bomb was about to be exploded. Some subtle sixth sense seemed to telegraph this fact. Telepathy was in the air—and Jim was keyed up to his best effort.

Stepping as far to the front of the platform as possible, so as to talk right to, and not merely at, his audience, he began a speech that was destined to make history.

* * * * *

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"They say the world is getting better," he began in modulated tones. "Perhaps it is. Certainly I hope so. But merely *better* is a long way from perfection. And one can't easily forget that it's still not ten years since 1918. Reference being made to that little affair in Europe with its hellish gas warfare, far too barbarous for earlier times when armies met and fought it out like men. And even if we *had* meant prohibition, could anyone be found who honestly believes in his heart that this has made things *better*? Far more likely that it's worse.

"It's too bad that we've hit this era of insane prohibition—and in this sentence I'm *not* referring to liquor. I have in mind that apparently growing group of persons who think their mission in life is constantly to be prohibiting one thing after another. In a way, we may be thankful that they bit off a pretty big handful when they bore down on booze, for this is keeping them so busy they have little time to be looking for new fields to conquer. Thus an attack on cigarettes and coffee, and goodness knows what not, is permitted to lie in abeyance—for a

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while. But these will come, if we be but patient, provided booze ever gives them a breathing spell, which is unlikely. Some people have so little business of their own that they feel called upon to butt in on that which pertains only to other people and is really none of their affair. We may despise this class—but that is just the trouble. We despise them so much that we loathe to take them seriously. Thus we often wake up only when they have put over on us something new to swallow. And that's where we miss fire—we do usually find ourselves having to swallow it. For these reformers are organized and we of the opposition usually are not.

“It is this element of professional prohibitors who put one over on the sportsmen of this state some years back by getting our bobwhites classified as ‘song birds’ and thus automatically destroying the greatest game bird of them all. That has been now some years ago and it has occurred to me that it is about time for someone who knows to acquaint the field sports fraternity at large with the actual present conditions. *For I find they do not really know.* Wherever I go I am flooded

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with questions. I discussed it with the game commissioner of Alabama last February. I have been interviewed by many of those interested from Illinois, Indiana, Kentucky, West Virginia, not to mention Mississippi, Virginia, the Carolinas—all states, in fact, where bob-white abides. And I find that, almost one and all, they are thinking in terms of the law as enforced—rather than on the situation as it is. And it's only the situation *as it is* that counts in our calculations.

"One of the first questions asked me is this: 'What has been the effect on your supply of quail as a result of this law?'

"Right there I always have to ask one myself: 'How do you mean?' I inquire.

" 'Well, over our way,' they say, 'we figure it's a good thing to split up the bebies and prevent too much inbreeding. What the folks in our state are wondering is what kind of birds you have where you don't split them up.'

"I always know that's coming, and then I have to explain that we *are* splitting them up. For quail *are* being killed today in this state—just as cocktails are being consumed in per-

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haps even greater proportion than before 'prohibition.' When I get clear with my questioners on this point, we are then in a position to discuss the quail crop along logical lines—but *not* from the standpoint of inbreeding, in regard to which I have no better information than they have themselves. We all know what the theory is—and undoubtedly it is a correct one. But let's forget the present for a moment and go back to the beginning.

"When, a number of years ago, our quail were demoted to the 'song bird' listing, I believe that something for them was necessary to be done. The state was pretty well shot out, and we in America had not yet come to our present appreciation of the need of helping nature along in the matter of restoration of our game. The old rail fences were going and the farmer had no incentive to leave uncut patches of cover where game might hide. From long habit, the hunters had come almost to forget that the right to hunt comes only by the kind suffrage of the rural population—and the latter had never been given real reason to feel kindly. We had not then

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learned (at least never put the knowledge into account) that proper feed and water must be provided and that vermin must constantly be fought. So we did need a rude awakening—and *we got it!* We got it with a vengeance.

“Well, the quail (all game, in fact) had become scarce anyhow—and that was before ‘prohibition’ had taught us our present disrespect and contempt for law—and so the new ‘song bird’ status as given the quail was respected. Several fortunately mild winters followed, with ideal spring breeding seasons, and the quail increased. Today we have, in the best covered parts of our state, as many bob-whites to the acre as any state in the Union—perhaps more. But to go back again—let’s not get ahead too fast!

“What happened was this, when bob-white became a singer of songs. Some few (*very* few, relatively) put away their guns. Others became rabbit hunters (yet very few from among the old bird hunters). Still others (the fortunately fixed ones) simply went to Indiana or Illinois, Kentucky or West Virginia, Mississippi or Alabama, Florida, Vir-

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ginia, the Carolinas or Georgia. And the balance just waited and dreamed—of the days that were gone, and the better days again to come.

“Thus time went on—but the better days did not come. Yet we saw that the condition of the birds was good and improving under a series of excellent breeding seasons. Gradually, here and there, fellows began to ‘jump over the traces.’ Some have told me that the following condition was created—that a habit developed of shooting into bevvies on the ground, thus making a clean up with one shot and avoiding too much attention by continuous shooting as in real quail hunting. I mention this for I have often heard it—but *I doubt it*. I am trying to deal squarely only with FACTS. Therefore, I want to emphasize that I cannot substantiate this statement. Any and all statements I may make as true *I can substantiate*. So I want to qualify any that I can’t. In the interest of sportsmanship, I should make it warm for anyone I might catch potting birds. But we all know that ‘where there’s smoke there’s apt to be some fire,’ so the matter merits mention. There

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undoubtedly has been *some* potting, I admit, but I'll tell you why I think it unlikely to be very prevalent. No real sportsman would ever do it, no matter what the provocation; and, it seems to me that a pointer or setter would be required to find the birds to be potted. Otherwise, the chances are all against the casual hunter knowing of their presence until the flush. And pointers and setters began to grow scarce around here after the song bird law had been written.

"Tempus fugit! The sportsmen of the state began to grow restless and chafe under the continued ridiculous restraint of the law which had lasted too long. Gradually, one by one, more and more of us began to 'jump over the traces.' Finally, the smoldering flame broke forth in a blaze and crystallized into action. The sportsmen of the state launched a bill to repeal the 'song bird' shame. This bill went duly before the state legislature. Do you want to know what was done about it? Well, I'll tell you. The fight waxed warm. Then someone called for action.

" 'I'll tell you what let's do with this bill,'

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suggested one legislator of the well-known cake-eating type—‘let’s refer it to the *temperance committee*.’ The corners of his mouth curled slightly in a professional politician’s typical leer. But the idea went over big!

“Now Abraham Lincoln once said—and very ably, too, as was his wont: ‘I know of no method of drawing up an indictment against a whole people!’

“Yet, in effect, that’s exactly what was done. Our sportsmen had been patient, very patient, in their tolerance of this obnoxious law. Your true sportsman is usually of a long suffering sort, and we in this state might have endured still further had our effort properly to place the quail again as a game bird met its defeat in manful manner. But supercilious·ridicule—that was unthinkable! The temper of the people would not stand for it. The sportsmen had been both sane and *serious*—yet a matter as dear to their hearts as devotion had been spurned with contemptuous intolerance. Thus had a politician’s simpleton suggestion defeated the very end that prompted it. A sportsman can take his licking—but don’t try to make fun of him

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or rub it in! That's dangerous. And so it has been positively proved in the case before us. THE LAW WAS OPENED BY ITS DEFEAT!

“‘For the first time in his life,’ one biographer of Bonaparte has written, ‘Napoleon had met a sublime, popular patriotism—a passion before which diplomacy, force, art and love of gain all lose their power.’ And so we might say in the present instance—*the intolerant attitude of the opposition had at last struck a something of sullen resistance on the part of the sportsmen too sublime to be downed*. No one knows what the temperance committee ever did with the bill in question. Just forgot it entirely, it is to be presumed. And I believe that statement is correct to the letter. But though nothing may have happened in the committee, something did happen outside of it. And what happened was simply this—a renewal of the killing of the quail.

“‘Unlawful,’ you say? Sure, it’s *unlawful*. But law of late has lost much of its majesty anyhow. And that’s a pity, too! But it’s just as much a fact none the less. And the law

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has only itself to blame—and, its law *makers*. If we would only see through things clearly, before we legislate, then we might have a better chance to *see them through*. Yet instead of seeing through things first, we go it blindly—and blunder. That's what one well-known writer meant when he said: 'I was once fined for contempt of court and I've been in contempt of it ever since.' One of the troubles of the law is that, besides poor laws, *we have too many*—and none are ever repealed. I'll take that back. A certain law was repealed last year in Kansas. But the law was a quarter of a century old, and—like eighty percent of all our laws—had outlived its usefulness. This was the law: that anyone driving a horseless carriage must stop at least a mile outside the city limits and telephone to the town that he was on his way in, so that all persons could get to their horses and prevent runaways. *That law was repealed*. And its repeal stands as a national record.

"There are two kinds of law—moral and man-made. The former comes out of the Bible. If we might live more by the former we should not need so much of the latter.

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And we have too much of it anyhow. Now the way most of our sportsmen figure it is about this way. We have our *national* liquor law of 1918. Whatever else may be said of it—certainly it is *national*. Our ‘song bird’ quail law is merely local. Now there are many of us who would really rather hunt quail than drink liquor. So many do the latter, breaking national law, that most of us feel we are not so vicious if we do the former, breaking local law. Of course, there may be someone, somewhere, who has not violated the liquor law—but no one knows who or where he or she is, so we can draw no moral influence from that source. Left thus to figure it out for ourselves, we see the other fellow taking his little drink with apparent perfect impunity, so we just go ahead and take our little hunt with about the same impunity—and *certainly with as clear a conscience*. The sportsman who drinks for his recreation has, of course, one advantage over his brother who prefers to take his in quest of bob-white—for the former sport is not so noisy. It may not end up so—but it starts that way. Quail shooting will continue its

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disadvantage unless one shoots with a silencer. Perhaps we may come to that. Anyhow, I am giving you just the facts. I am telling you frankly how the sportsmen all about us are thinking today—telling you just as I know the situation—and I know it well. No one in our state knows it better. And I tell you this—we are a force to be reckoned with, for there are 400,000 of us as a minimum—a greater number than the total population of any city in the state, except one! *You can't draw up a legal indictment against such a multitude!* Lincoln said it could not be done—and it can't. When you have one force as big as this drawn up against another, you are contending with an *issue*—not a crime.

“So, as I have intimated, we now have quail shooting again. Still, it is not a satisfactory proposition—and for many reasons. One is that it leads to such pitiful *waste* of game. And nothing is so deplorable as waste of game, so think those of us who think correctly. The fifteenth day of last November I started out for ring-neck pheasants. It was the first day of the season. About eight o'clock in the morning (before the season was

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two hours old) I picked up six quail which had been shot not over half an hour at the very outside, but which had been left lying right where they fell, perhaps because whoever killed them feared to be caught carrying them all day. They had *not* been hidden to be picked up later, for they were lying just as they had fallen, within a short distance of each other and easily in full view of any who might find them, for there was a light snow fall and the birds thus stood out in bold relief.

“A few days later I was hunting with the secretary of our State League of Sportsmen. He is a real sportsman himself, broadminded and fully appreciative of true conditions—the type of man who should today be head of the game department. We sportsmen pay, incidentally, some half million dollars a year in license fees—which is more than most states enjoy—yet for which we get far less than any other state in the Union. For this relatively small amount, however, it is only fair to add that we should not expect much—but they *could* give us at least something more than the *nothing* we now get.

“Well—to resume—we were about twenty-

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five miles north of my home, and having a good hunt, when we came to a thicket and my friend skirted the edge, while I went through it. When we met at the far end, I said to him:

“‘Did you hear me shoot in there?’

“‘No—and you didn’t,’ was his perfectly natural reply.

“‘Just the same, here’s the game I acquired in that thicket,’ I answered—and showed him a fine cock quail which had been but recently killed by someone and which my little English setter bitch fortunately found.

“There may be perhaps a certain few (but not among those who know) who may wonder if these are not but isolated cases—who may debate that the condition is prevalent. No, these are *not* just isolated cases. I could give you hundreds of them. But, manifestly, the important object of this frank talk is not merely to catalog cases, but from such samples to draw conclusions as to what should be done about it. For the thing that counts is—*what’s the answer?* First, however, let me add that, if there is anything isolated about these cases, it is in the fact that the game was

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left to waste and rot. I think we're getting over that very largely. I believe that a high percentage of our quail killed today are put to the use for which nature intended them. But the table should see *all* of them; not just some of them. Perhaps, before we go on, one more example of the present attitude may be indicative. We were in a little wayside hotel in the southern part of the state where the sentiment for hunting has always been strong. Sitting around the lobby in the evening, helping the gang to 'spit the fire out,' one of the villagers looked over toward me and said:

"'What're you fellas huntin'?"

"'Rabbits,' I answered.

"'Kinda scarce this year,' he said—'but they's a world of *birds*.' (There's only one species of feathered game that goes by that designation of just plain—'birds.')

"'Can't kill 'em, can you?' was my reply.

"'Can if you can hit 'em,' he said—and in that statement he just about summed up the present general attitude all over the state. You men here tonight know that just as well as I do.

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“Well, if that is the situation, what’s going to be the outcome? Your question is logical. My answer is not—for *I don’t know*. I do know this—that the temper of the sportsmen has been tampered with until it has reached the breaking point. They can no more keep us from killing quail today than we could have stemmed the tide of the Mississippi flood. And there’s another thing I know. I know that it would be vastly healthier all round if our quail shooting were legitimately opened up with a definite legal season. It need not start with a long season nor with a big bag limit—preferably not. But I’ll tell you what would happen. Eighty percent, perhaps more than ninety percent, of those who now kill a quail any time they feel like it would take it upon themselves to observe the law. I *know* they would—because I know the temper of the people on this question. Thus I believe that today we are killing as many (or perhaps far more) quail illegally as we would ever kill legally with an ‘open’ season. And it would be better for the quail. The sportsmen would watch, guard and feed them. They would have an

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incentive to combat their natural enemies, which is now lacking. It would put in the field several hundred thousand sportsmen, most of whom would take it upon themselves immediately to report any violations of the law. This we are in no position to do today. And I am convinced that from this changed situation there would soon come the greatest good.

“To give us at least a short open season and a moderate bag limit would bring order out of the present chaos—for that’s just what we’re in today. Here’s an example. The newspapers recently carried an item to the effect that the game wardens were feeding the quail during a prolonged snow, out of funds from the state game division. Morally, this was fine—and no real sportsman would ever say them nay. But, really, what right had they to do this! *NONE*. The sportsmen pay their license fees to the state for the protection and perpetuation of *game* birds. No one has the right to appropriate these funds to feed ‘song birds.’ That’s just a good sample of the present situation. It’s high time we knew what’s what. I mailed a clipping of

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the newspaper item in question to the editor of a leading sportsman's publication and this was his reply: 'All that you say is very true about this item, but if you fellows out there can't help yourselves out of this hole, I don't see how you can expect much help from those of us in other states.' Which was a very wise and pointed reaction.

"What will the answer be? I have said that I don't know. But I do know what the answer *IS* even if I do not know what it is to be. We sportsmen must GET TOGETHER for the good of ALL. We must cut out selfish interests. The fisherman must work for and with the field fellows, and the latter must do the same for the former. The rabbit hunters must help their brothers who prefer the quail—and vice versa. And so with the coon hunters, the duck hunters—all down the line. Then we will have the strength we now so lack—though potentially we have it and to spare. The trouble is we have not been broad-minded enough to stick together and realize that the battles of one group are the battles of all, if they but classify under the one head of SPORTSMAN-

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SHIP. If the leaders of our organizations of sportsmen have outlived their usefulness, they must be big enough to step aside—and not simply clutter up the works by hanging on. We need *unity* between all our working organizations in the interest of sport. This *must* be. If our four hundred thousand field sportsmen ever *do* get organized *right*, the opposition may well look out! For we sportsmen outnumber our opponents. The difficulty is that our strength has been as scrambled as was that of the slaves of old. And we've been made slaves of—just that.

“This is a political proposition—and so, above all else, what we need most right now is a governor who is himself, first, a sportsman and, second, a strong enough man not to fear to take his stand. The right governor will have many ways to force the issue through for us. The first thing for us to do is to find this right man for governor. The second move is to *elect* him, pledged to our platform. Impossible? NO! The organized strength of the sportsmen of this state can elect any man that we set our minds to elect. ISN'T IT A PITY THAT WE DON'T!

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Maybe some day we will—and that will be a glorious day.

“The maudlin sentimentalists may mean well—but this group never does make a practice of weighing the *facts*. It is not a question of protecting the quail. The sportsmen—to whom they mean the most—are the ones to give them *real* protection in return for the privilege of a few days’ sport afield with them each year. The facts are that we are killing quail in this state today, even though they are theoretically protected. The facts are that we shall continue to do so in spite of all hell and damnation. The facts are that the law cannot cope with the situation—it has gotten beyond that. The facts are that a legal open season would actually save the birds. It would place the killing period within definite limits. Today the fellows shooting quail have no bag limit and no ‘closed season.’ And there isn’t a real game warden in the state who is himself in sympathy with the present law—which in itself tells a big story. All in all, the people back of the ‘song bird’ law have not—and *cannot* accomplish their purpose. Further-

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more, the longer the present situation drags on the worse it will get.

“Will we here ever have legalized quail shooting again? I have said that I don’t know. But I do know that we CAN—if we WILL. And the answer lies very largely in what may be the active outcome of our getting together here tonight. Let’s buckle up our belts and put it over.”

* * * * *

When Big Jim stepped back to his chair and sat down, after delivering a speech the full power of which even he himself didn’t realize for some time to come, he wondered at the awed silence which followed his conclusion. Abraham Lincoln felt somewhat the same sort of wonder when he concluded his famous address at Gettysburg, which will live for all time to come. Finally, the clapping started slowly in an obscure corner of the hall, gathering volume until the applause became almost thunderous. The chairman stepped forward and grasped Jim’s hand, waiting until he could be heard.

“You’ve delivered an address this evening, Mr. Marsh, which is the strongest note that

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has yet been launched for the cause which means so much to all of us," he said. "I predict that tonight's remarks will be quoted in every newspaper in the state—and I believe I am safe in saying that the way you have presented things will stir us all to action and stimulate us as sportsmen to stand together as never before. And if it has but that one result, it will prove the greatest thing you could have done. Permit me to thank you on behalf of our association for presenting things to us in the splendid way you have."

He was answered by an outburst of renewed cheering that showed how truly the chairman had spoken. And then it was that Big Jim Marsh, with his prophetic vision, saw into the future and realized that he had at last stirred up a force too strong to be downed.

* * * * *

"Well!" said Joe, as they caught the midnight train for home. "You sure threw a bomb into that meeting. But listen," he added—"you never said a word about pheasants or the breeder's law. I was expecting you would. Why didn't you?"

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"There was really no need," Jim answered. "That'll all take care of itself, in time. What we need is to create a law taking game and fish out of politics and putting them under the jurisdiction of a commission composed of sportsmen. That's the important thing—and it makes no difference whether it's the quail or the pheasant that brings it about. The end achieved is what counts—not the means by which it is reached."

"Anyhow, I'll tell you one thing, Jim. I know I feel more a part of things than I ever did in my life. I used to just live—now I feel as if I'm helping to do something that's worth while and will live on. It's great to be able to feel that way and life's more satisfying."

"Sure it is," said Jim. "And it will be doubly so if we live to know that we've really helped to find *the answer*."

THE END

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